

REGISTER



South Dakota Legislative Research Council

Volume 45

Monday, 8:00 a.m., May 20, 2019

GET COPIES OF PROPOSED RULES AND OTHER INFORMATION AT NO CHARGE at <https://rules.sd.gov> or by contacting the agency directly via the means outlined in their notice of hearing.

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

Notice of Proposed Rules: (The date in parentheses is the date the rules were filed with the Legislative Research Council.)

Department of Revenue: (May 14, 2019) intends to amend rules to update definitions; update the timeline and processes for alcohol wholesaler price filings; provide enhanced notice to retailers and clarify requirements for wholesalers for reported delinquencies; and to allow alcohol retailers to use loyalty and reward programs. The general authority for these rules, as cited by the department, is SDCL § 35-10-1.

A public hearing will be held in the basement conference room of the Anderson Building, 445 East Capitol Avenue, Pierre, South Dakota, on June 12, 2019, at 1:00 p.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Department of Revenue, Legal Division, Anderson Building, 445 E. Capitol Avenue, Pierre, SD 57501. The rules can be viewed online at <https://rules.sd.gov/>. Material sent by mail must reach the department by June 26, 2019, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the

department can make arrangements are asked to call (605) 773-6314 at least 48 hours before the public hearing.

Department of Environment and Natural Resources: Board of Minerals and Environment: (May 16, 2019) intends to amend rules to increase regulatory flexibility and clarity of rules applicable to hazardous waste generators; establish a methodology for the use of electronic manifests; establish procedures for managing and disposing of defective airbag inflators; provide healthcare facilities and pharmacies with management and disposal options for hazardous waste pharmaceuticals; revise requirements involving imports and exports of hazardous wastes; and incorporate corrections made in federal regulations. The general authority for these rules, as cited by the board, is SDCL §§ 34A-11-8 and 34A-11-9.

A public hearing will be held at the Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on July 18, 2019, at 10:00 a.m. CT. Copies of the proposed rules may be obtained from and written comments sent to Department of Environment and Natural Resources, Waste Management Program, Joe Foss Building, 523 E. Capitol Avenue, Pierre, SD 57501 or by calling Carrie Jacobson at (605) 773-3153 or at the following website: <http://denr.sd.gov/des/wm/hw/hwmainpage.aspx>. Material sent by mail or electronic mail must reach the Department by July 15, 2019, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department

can make arrangements are asked to call (605) 773-3153 at least 48 hours before the public hearing.

Department of Game, Fish and Parks:

(May 16, 2019) intends to amend rules to add air guns to the types of weapons regulated by 41:03:01:16; impact the use of certain weapons in the Newton Hills State Park, LaFramboise Island Nature Area, and Farm Island Recreation Area; correct nomenclature used for several designated management units; alter the "no wake zone" in the waters of Deerfield Reservoir; limit the number of access permits for residents and nonresidents in certain limited access units; establish a start date for nonresident archery deer hunters; create an application deadline for nonresident archery deer hunters; alter the deadline for an organization to submit an application letter for the opportunity to auction a Bighorn Sheep tag; and remove the allowance of smallmouth and largemouth bass to be harvested from Pactola Reservoir by means of spearing or bow. The general authority for these rules, as cited by the department, is SDCL §§ 32-3A-1, 41-2-18, and 41-17-1.1.

A public hearing will be held at the Ramkota Hotel and Convention Center, 920 West Sioux Avenue, Pierre, South Dakota, on June 6, 2019, at 2:00 p.m. CT. Copies of the rules may be obtained without charge from and written comments sent to the Secretary of the Department of Game, Fish and Parks, Foss Building, 523 E. Capitol, Pierre, SD 57501. The rules are also available online at <https://rules.sd.gov>; comments may be submitted on the department website at <http://gfp.sd.gov/forms/positions>. Material sent by mail or email must reach the department at least 72 hours prior to the date of the hearing to be considered. All written and email comments must include the name, city, and state of the person submitting them. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make

arrangements are asked to call (605) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf).

Department of Health: (May 17, 2019)

intends to amend rules to minimize and clarify the requirements pertaining to the redistribution of nursing facility beds. The general authority for these rules, as cited by the department, is SDCL § 34-12-35.8.

A public hearing will be held at the Robert Hayes Building, Room 107, 600 East Capitol Avenue, Pierre, South Dakota, on June 12, 2019, at 10:30 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Department of Health, 600 E. Capitol Avenue, Pierre, SD 57501. The rules are available online at <https://rules.sd.gov/> or <http://doh.sd.gov/News>. Materials sent by mail must reach the department by June 24, 2019, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3661 at least 48 hours before the public hearing.

Department of Health: Board of Medical and Osteopathic Examiners: (May 17, 2019)

intends to amend rules to clarify the limitation of attempts of an exam for medical license applicants. The general authority for these rules, as cited by the board, is SDCL § 36-4-11.

A public hearing will be held in Room 306 of the First Dakota National Bank building, 101 North Main Avenue, Sioux Falls, South Dakota, on June 13, 2019, at 9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Medical and Osteopathic Examiners, 101 N. Main Avenue, Suite 301, Sioux Falls, SD 57104. Proposed rules text is

also available at www.sdbmoe.gov and www.rules.sd.gov. Comments may be sent by email to SDBMOE@state.sd.us. Material sent by mail or email must reach the Board by June 10, 2019, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Board can make arrangements are asked to call (605) 367-7781 at least 48 hours before the public hearing.

NOTICE OF RULES TRANSFER:

Executive Order 2019-01 was signed by the Governor on January 14, 2019 and became effective April 14, 2019. Section 38 of the Executive Order requested the Code Commission and Code Counsel of the Legislative Research Council to transfer the following existing administrative rules to the Governor's Office of Economic Development: Agriculture Enterprise Programs in Article 12:07; Beginning Farmer Loan Program in Article 12:21; Agribusiness Bonding and Lending Programs in Article 12:22; and South Dakota Certified Beef Program in Article 12:79. The rules transfer has been completed.

NOTICE:

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan concerning the establishment of a Medicaid Recovery Audit Contractor Program. The proposed State Plan Amendment (SPA) has an effective date of June 1, 2019. Pursuant

to Section 1902(a)(42)(b)(i) of the Social Security Act, the State is required to establish a program under which it will contract with one or more recovery audit contractors to identify underpayments and overpayments of Medicaid claims. The proposed amendment seeks an extension of a previous exception ending May 31, 2019. The State already maintains a very low rate of errors in Medicaid payments and estimates amounts to be recovered would not be sufficient to attract bidding attention from vendors. For these reasons, the State is seeking a new request for an exception to be in effect until May 31, 2022. The proposed amendment replaces Page 36b in Section 4.5. The department estimates there will be no fiscal impact associated with this SPA. Written requests for a copy of these changes, and corresponding comments, may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, SD 57501.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

(None)

NOTE REGARDING ADOPTED RULES:

The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue, and the Department of Labor and Regulation for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

5-20-2019	Department of Education: South Dakota Board of Education Standards: Amend rules to update language to reflect industry standards; correct references to national program standards where applicable; and align terminology and requirements with educator certification rules updated; 45 SDR 124, April 1, 2019.
5-23-2019	Department of Transportation: Amend the definitions section of its rules concerning state highway fund loans for local governments to include townships; 45 SDR 137, April 29, 2019.

6-6-2019	Department of Game, Fish and Parks: Amend rules to add air guns to the types of weapons regulated by 41:03:01:16; impact the use of certain weapons in the Newton Hills State Park, LaFramboise Island Nature Area, and Farm Island Recreation Area; correct nomenclature used for several designated management units; alter the "no wake zone" in the waters of Deerfield Reservoir; limit the number of access permits for residents and nonresidents in certain limited access units; establish a start date for nonresident archery deer hunters; create an application deadline for nonresident archery deer hunters; alter the deadline for an organization to submit an application letter for the opportunity to auction a Bighorn Sheep tag; and remove the allowance of smallmouth and largemouth bass to be harvested from Pactola Reservoir by means of spearing or bow; 45 SDR 145, May 20, 2019.
6-12-2019	Department of Health: Amend rules to minimize and clarify the requirements pertaining to the redistribution of nursing facility beds; 45 SDR 145, May 20, 2019.
6-12-2019	Department of Revenue: Amend rules to update definitions; update the timeline and processes for alcohol wholesaler price filings; provide enhanced notice to retailers and clarify requirements for wholesalers for reported delinquencies; and to allow alcohol retailers to use loyalty and reward programs; 45 SDR 144, May 20, 2019.
6-13-2019	Department of Health: Board of Medical and Osteopathic Examiners: Amend rules to clarify the limitation of attempts of an exam for medical license applicants; 45 SDR 145, May 20, 2019.
7-18-2019	Department of Environment and Natural Resources: Board of Minerals and Environment: Amend rules to increase regulatory flexibility and clarity of rules applicable to hazardous waste generators; establish a methodology for the use of electronic manifests; establish procedures for managing and disposing of defective airbag inflators; provide healthcare facilities and pharmacies with management and disposal options for hazardous waste pharmaceuticals; revise requirements involving imports and exports of hazardous wastes; and incorporate corrections made in federal regulations; 45 SDR 144, May 20, 2019.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2019 Interim is Monday, June 3, 2019, at 10:00 a.m. CT in Room 414 of the State Capitol. Other meetings scheduled for the 2019 interim will be held July 8, August 12, September 9, and November 4.

Watch for notices of 2019 Rules Review Committee meetings in this publication, on the LRC website, and at the Capitol.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://www.sdlegislature.gov/Rules/RulesManual.aspx>.