

# REGISTER



## *South Dakota Legislative Research Council*

Volume 38

Monday, 8:00 a.m., November 14, 2011

---

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Labor and Regulation: Division of Insurance:*** (November 8, 2011) intends to amend a rule to require adjustments in Medicare supplement coverage dates when a person is enrolling or disenrolling in a Medicare Cost plan. The general authority for this rule, as cited by the department, is SDCL 58-17A-2.

A public hearing will be held in the Main Floor Conference Room, Anderson Building, 445 E. Capitol Ave., Pierre, South Dakota, on November 28, 2011, at 2:00 p.m. Paper copies of the proposed rule may be obtained without charge from and written comments sent to the Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by November 27, 2011, to be considered. The text of the proposed rule is posted on the department's website: <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rule may also be obtained as a Microsoft Word attachment by emailing [melissa.kleemann@state.sd.us](mailto:melissa.kleemann@state.sd.us). 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) 773-3563 at least 48 hours before the hearing.

***Department of Social Services: Division of Adult Services and Aging:*** (November 8, 2011) intends to amend rules to repeal obsolete rules, update definitions, update and clarify eligibility requirements and covered services related to the home and community-based services waiver,

update references, remove obsolete and unnecessary provisions, and remove obsolete and unnecessary references. The general authority for these rules, as cited by the department, is SDCL 28-1-45, 28-6-1, and 34-12-28.

A public hearing will be held in the DSS Conference Room, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on November 29, 2011, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by December 9, 2011, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. 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) 773-3165 at least 48 hours before the hearing.

***Secretary of State:*** (November 9, 2011) intends to adopt rules to establish fees for lobbyists that were previously in statute and to provide for a fee for replacing a lost lobbyist badge. The general authority for these rules, as cited by the office, is SDCL 2-12-3.

A public hearing will be held in Suite 204, 2<sup>nd</sup> floor, State Capitol, Pierre, South Dakota, on December 1, 2011, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary

of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501 or the proposed rules may be obtained at <http://sdsos.gov/rulenotice.htm>. Written comments must be received on or before December 12, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

***Department of Game, Fish and Parks:***

(November 10, 2011) intends to amend a Spring Wild Turkey Hunting Season rule to establish the number of licenses/tags available for the Prairie Units and amend a Waterfowl Hunting Season rule to change the daily bag limit for the Spring Light Goose Conservation Order from 20 light geese to unlimited. The general authority for these rules, as cited by the department, is SDCL 41-2-18 and 41-11-5.

A public hearing will be held at the AmericInn, 312 Island Drive, Ft. Pierre, South Dakota, on December 1, 2011, at 2:00 p.m. (CST). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office

of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission.

Comments may also be sent by email to [Wildinfo@state.sd.us](mailto:Wildinfo@state.sd.us). All written and email comments must include the commenter's name and address. 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) 773-3387 before the hearing.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE: (None)**

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed 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 Regulation, and the Department of Labor for Article 47:03.

**REMINDER OF HEARINGS SCHEDULED**

11-16-2011	Environment and Natural Resources: Board of Minerals and Environment	Intends to replace the existing oil and gas conservation Article 74:10 with Article 74:12 which will give a clearer, simpler format that includes allowing approval of aquifer exemptions under the notice of recommendation process and allowing administrative approval of commingling oil from separate pools, completing producing wells in multiple zones, dissolving abandoned oil and gas fields, and drilling wells without a blowout preventer; expediting regulatory approval under the notice of recommendation process by allowing an operator to set a hearing date for cases that may or may not require a contested case hearing, excluding a
------------	---	--

		<p>duplicative requirement for monthly reporting of water production, an unnecessary requirement for annual submission of pipeline maps, duplicative requirements pertaining to directional wells and pits that are hazardous to birds or other species, an outdated rule pertaining to production of carbon dioxide and steam, and an unnecessary requirement for annual inspections of all oil and gas wells; 38 SDR 71.</p>
11-16-2011	Health: Office of Licensure and Certification	<p>Amend rules to enable birth centers to become licensed as health care facilities and to allow for the provision of an appropriate level of care and services associated with normal, uncomplicated pregnancies; 38 SDR 72.</p>
11-17-2011	Labor and Regulation: Appraiser Certification Program	<p>Amend rules to change the Department of Revenue and Regulation to Department of Labor and Regulation; change classroom to class; delete the Office of Thrift Supervision; change Examinations Council to Examination Council; revise scope of practice for state-certified residential and state-licensed appraisers; include property characteristics for determining assignment complexity; require a supervising appraiser to be licensed or certified; revise application certification of competency for supervising appraisers; limit the number of attempts a candidate may have to successfully pass the National Uniform Appraiser Examination; raise the hours of experience requirement for application for the state-licensed appraiser classification; include all appraisal practice assignments must comply with the uniform standards; adopt the 2012-2013 Edition of the Uniform Standards of Professional Appraisal Practice; revise examples of those entities establishing assignment conditions; require appraisers to include the Appraisal Management Company registration number in appraisals as applicable; add certain considerations that may be included for selection of appraisers; raise the upgrade fee; provide example of field trips; and specify that an Appraiser Qualifications Board uniform standards instructor must hold a state-certified residential or state-certified general appraiser classification; 38 SDR 77.</p>

11-18-2011	Revenue: South Dakota Lottery Commission	Amend a rule that would require lottery retailers to collect \$2.00 for the sale of each Powerball play instead of \$1.00; 38 SDR 66.
11-18-2011	Labor & Regulation: Board of Technical Professions	Amend rules to clarify definitions; add education requirements for Land Surveyors by removing experience only licensure; correct mistakes; add NCARB's 12 hours of Health Safety and Welfare (HSW) per calendar year as an alternate method for continuing education for architects; increase the fee for retired status; increase the cost of the L.A.R.E. graphics portion of the exam; increase the late renewal penalties for individuals and business entities; create a comity licensure section for licensees seeking licensure through comity; create a Fire Protection Systems section; remove minimum requirements for shop drawings for sprinkler and fire alarm systems; remove informal hearings from the board's options for informal dispositions of complaints; and remove the 60 day maximum limit for a hearing to be had upon request of an aggrieved party; 38 SDR 79.
11-21-2011	Social Services: Division of Child Support	Adopt a rule to add the date of hire to the information that employers within the state must furnish to the state directory of new hires; 38 SDR 77.
11-21-2011	Labor & Regulation: Division of Insurance	Amend rules to repeal the provision allowing insurers to obtain approval of credit life and health provisions not otherwise permissible under rule; incorporate the provisions of Chapter 20:06:14 into Chapter 20:06:10; define facilitation for purposes of examinations; and repeal Chapter 20:06:14; 38 SDR 78.
11-28-2011	Health: Health Systems Development and Regulation	Modify, clarify, and update rules pertaining to licensed assisted living centers; 38 SDR 87.
11-28-2011	Labor & Regulation: Division of Insurance	Amend a rule to require adjustments in Medicare supplement coverage dates when a person is enrolling or disenrolling in a Medicare Cost plan; 38 SDR 95.
11-28-2011	Revenue: Division of Property and Special Taxes	Amend rules to update manuals to current version and ensure that the language of the rules is consistent; 38 SDR 87.
11-29-2011	Secretary of State: Board of Elections	Amend rules to create a form for the adult children of overseas residents to register to vote in the state of South Dakota; update and clarify electronic pollbook security; and

		change the way in which some election related forms are prescribed; 38 SDR 88.
11-29-2011	Social Services: Division of Adult Services and Aging	Amend rules to repeal obsolete rules, update definitions, update and clarify eligibility requirements and covered services related to the home and community-based services waiver, update references, remove obsolete and unnecessary provisions, and remove obsolete and unnecessary references; 38 SDR 95.
11-30-2011	Revenue: Commission on Gaming	Amend Gaming rules to define tournament prize pools; clarify which tournaments require prior approval of the executive secretary; allow for the play of a variation of blackjack known as Dealer Bust 21; allow for the play of a variation of poker known as Pai Gow poker; and allow for the configuration of slot machines from a secure server; 38 SDR 78.
12-1-2011	Agriculture: Division of Ag Development	Amend South Dakota Certified Beef Program rules by changing the definition of verifiable address, updating beef quality assurance (BQA) references, and changing enrollment criteria; 38 SDR 78.
12-1-2011	Game, Fish and Parks	Amend a Spring Wild Turkey Hunting Season rule to establish the number of licenses/tags available for the Prairie Units and amend a Waterfowl Hunting Season rule to change the daily bag limit for the Spring Light Goose Conservation Order from 20 light geese to unlimited; 38 SDR 96.
12-1-2011	Secretary of State	Adopt rules to establish fees for lobbyists that were previously in statute and to provide for a fee for replacing a lost lobbyist badge; 38 SDR 95.
12-9-2011	Health: Board of Pharmacy	Amend rules regarding Registered Pharmacy Technicians to establish requirements for mandatory education, training, and certification of pharmacy technicians; 38 SDR 87.

### **RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 15, 2011, via the Digital Dakota Network (DDN) in Room 414 in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron --- Department of Human Services, 2361 Dakota Ave. S; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – SDSM&T, 501 E. St. Joseph St., Room CB109; Sioux Falls – SFUC, 4801 N. Career Ave., Room FADM 257; and Yankton – DOT, 1306 W. 31<sup>st</sup> St. The committee chair has set the following tentative

meeting schedule for the 2011 interim: December 20.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.