

REGISTER



South Dakota Legislative Research Council

Volume 43

Tuesday, 8:00 a.m., May 30, 2017

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

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

Department of Labor and Regulation: Appraiser Certification Program: (May 25, 2017) intends to amend rules to define each appraiser classification; define a certificate, license and registration as a credential; modify certain language, re-structure sentences, and correct errors; allow reciprocal appraisers to be eligible to become supervisory appraisers without having to be certified in South Dakota for three years; and clarify that a state-registered appraiser is required to complete an examination prescribed by the secretary. The general authority for these rules, as cited by the department, is SDCL §§ 36-21B-3 and 36-21B-4.

A public hearing will be held in the Appraiser Certification Program Conference Room, 308 S. Pierre St., Pierre, South Dakota, on June 30, 2017, at 10:00 a.m. A copy of the proposed rules may be obtained from and written comments sent to the Department of Labor and Regulation, Appraiser Certification Program, 308 S. Pierre St., Pierre, SD 57501. Material sent by mail must reach the department by July 10, 2017, to be considered at the public 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) 773-4608 at least 48 hours before the hearing.

Department of Education: State Historical Society: (May 25, 2017) intends to amend rules to update reference materials; set standard fees for services provided; revise the museum rental fees; eliminate the fee for purchasing a USGS map; and correct a SDCL reference. The general authority for these rules, as cited by the department, is SDCL §§ 1-18-31.2, 1-18C-12, 1-19A-5, 1-19A-11, 1-19A-29, and 1-20-21.1.

A public hearing will be held at 11:00 a.m. (CDT) on July 14, 2017, at the Cultural Heritage Center, 900 Governors Drive, Pierre, South Dakota. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota State Historical Society, 900 Governors Dr., Pierre, SD 57501-2217. Written comments must be received by July 14, 2017, 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) 773-3458 at least 48 hours before the hearing.

Department of Environment and Natural Resources: Board of Minerals and Environment: (May 26, 2017) intends to update the state's existing hazardous waste rules by incorporating updated, codified federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2012 through June 30, 2016. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, management standards for solvent-contaminated wipes, establishing a framework for the use of electronic manifests, revisions to requirements involving imports and exports of hazardous

wastes, and incorporating technical and typographical corrections to the federal rules. 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 via the Digital Dakota Network (DDN) on July 20, 2017, at 10:00 a.m. CDT at the following DDN sites: Brookings – South Dakota State University, 8th and Medary Ave., Pugsley Center, Room 203; Pierre – Capitol Building, 500 E. Capitol Ave., Room B12, Studio A; Rapid City – University Center, 4300 Cheyenne Blvd., Room 113; Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145; Spearfish – Black Hills State University, 1200 University St., E.Y. Berry Library, Room LIB0011; Vermillion – University of South Dakota, 414 E. Clark, Delzell Education Center, Room 203; and Watertown – Department of Environment and Natural Resources, 2001 9th Ave. SW, Suite 500. Copies of the proposed rules may be obtained without charge by calling Carrie Jacobson at (605) 773-3153 or from the following website:

<http://denr.sd.gov/des/wm/hw/hwmainpage.aspx>

Access to online commenting is also available at: <http://denr.sd.gov/public/default.aspx>.

Written comments may be sent to the Department of Environment and Natural Resources, Waste Management Program, Joe Foss Bldg., 523 East Capitol Ave., Pierre, SD 57501-3182. All comments must be received by July 19, 2017, 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 Carrie Jacobson at (605) 773-3153 at least 48 hours before the hearing.

DECLARATORY RULINGS:

The **South Dakota Commission on Gaming** has determined that Aruze Gaming America's electronic device, aka "Shoot to Win Craps," is a slot machine according to the statutes and rules related to gaming in Deadwood and may be operated in licensed casinos in Deadwood.

The Declaratory Ruling is dated April 10, 2017.

The **South Dakota Commission on Gaming** has determined that new construction proposed by Optima, LLC, identified as Gaming #10 set forth in their November 29, 2016, petition, constitutes a separate building according to the rules relating to the buildings in Deadwood, the proposed inner access between the new construction known as Gaming #10 and the existing Cadillac Jacks' building qualifies as an appropriate opening under the rules, and that the inner opening between the new construction and Cadillac Jack's building can be protected by a roll-down fire door. The Declaratory Ruling is dated April 10, 2017.

NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning personal care services effective July 1, 2017. Per the proposed State Plan Amendment (SPA) the personal care services limit will be changed from a maximum of 120 hours of service during a calendar quarter to a maximum of 500 hours of service annually. Additionally, the personal care services authorization requirements are being revised to no longer require a prescription. The SPA amends page 43 of Supplement 1 to Attachment 3.1-A and page 9 of Attachment 3.1-A of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. Copies of the proposed SPA pages are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan related to the Division of

Adult Services and Aging transitioning to the Department of Human Services to join the Division of Long Term Services and Supports effective July 1, 2017. The proposed State Plan Amendment (SPA) updates the list of Divisions in the South Dakota Department of Human Services and updates the list of cooperative agreements between the Department of Social Services and the state's health and vocational rehabilitation agencies. The SPA amends page 1 and 2 of Attachment 4.16-A and page A2 of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. Copies of the proposed SPA pages are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

OFFICE OF THE ATTORNEY GENERAL: LAW ENFORCEMENT OFFICERS STANDARDS AND TRAINING COMMISSION: 102:01:06:02.01.

History-Notice: 43 SDR 141, May 1, 2017

Hearing: N/A

Filed: May 19, 2017

Effective: May 19, 2017

Executive Appointments:

David Baumberger, Rapid City, was appointed on May 18, 2017, to the **State Plumbing Commission**, to replace Daniel Hartman, effective immediately and shall continue until April 14, 2020.

Loren Beld, Hazel, was appointed on May 18, 2017, to the **Statewide One-Call Notification Center Board**, to replace Gene Solseth,

effective immediately and shall continue until October 31, 2017.

David S. Bonde, Ft. Pierre, was reappointed on May 18, 2017, to the **South Dakota Real Estate Commission**, effective immediately and shall continue until April 14, 2020.

Brian Bowker, Eureka, was appointed on May 18, 2017, to the **Fire Marshal's Advisory Board**, to replace Jerry Diamond, effective immediately and shall continue until April 21, 2021.

Molly Hall-Martin, Pierre, was reappointed on May 18, 2017, to the **Hagen-Harvey Memorial Scholarship Board**, effective July 1, 2017, and shall continue until June 30, 2022.

David Hansen, Dell Rapids, was reappointed on May 18, 2017, to the **State Plumbing Commission**, effective immediately and shall continue until April 14, 2020.

Chris Houman, Sioux Falls, was appointed on May 18, 2017, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2020.

Sue Jensen, Dakota Dunes, was appointed on May 18, 2017, to the **Commission on Equal Access to Our Courts**, to replace May McClure Bibby, effective immediately and shall continue until June 30, 2018.

Nicole Osmundson, Sioux Falls, was appointed on May 18, 2017, to the **South Dakota Professional Teachers Practices and Standards Commission**, to replace Patti Benson, effective immediately and shall continue until December 31, 2019.

Mark J. Rogers, Dell Rapids, was reappointed on May 18, 2017, to the **State Plumbing Commission**, effective immediately and shall continue until April 14, 2020.

Mike Roemmich, Aberdeen, was reappointed on May 18, 2017, to the **Fire Marshal's Advisory Board**, effective immediately and shall continue until April 12, 2021.

Steve Westra, Sioux Falls, was appointed on May 18, 2017, to the **Board of Tourism**, to replace George Kessler, effective immediately and shall continue until June 30, 2018.

Ryan Wordeman, Spearfish, was reappointed on May 18, 2017, to the **South Dakota Real Estate Commission**, effective immediately and shall continue until April 4, 2020.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. 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

<p>6-6-2017</p>	<p>Department of Health: Division of Health Systems Development and Regulation Amend rules to allow for the regulation of the emergency medical responder and revise rules to reflect current standards for emergency medical technicians; 43 SDR 153, May 22, 2017.</p>
<p>6-8-2017</p>	<p>Department of Game, Fish and Parks Amend a Camping Permits and Rules (Park facility use fees) rule to establish facility fees for special events held at the Good Earth State Park visitor center and adjacent grounds; amend Application for License rules to allow the department secretary to authorize a terminally ill person to hunt outside established season dates, require a resident or nonresident deer hunter who possesses an archery, muzzleloader, youth or mentor deer license to obtain a free access permit to hunt in the newly created East River deer Limited Access Unit 13L, and allow licenses to be issued to nonresident hunters in Unit WRD-58D for the West River prairie deer season; amend a License Forms and Fees (Custer State Park Trophy and Non-Trophy Bison Licenses) rule to adjust the license fees for a Custer State Park trophy bull bison license from \$5,000 to \$6,500 and for a Custer State Park non-trophy bull bison license from \$2,250 to \$3,250; amend a Waterfowl Hunting Season (Nonresident Waterfowl Licenses) rule to reduce the total number of temporary nonresident waterfowl licenses from 2,000 to 1,750, move Brown County from Unit NRW-00Y (northeast SD) to Unit NRW-00X (central/northcentral SD), reduce the total number of nonresident waterfowl licenses in Unit NRW-00X from 1,500 to 1,000 licenses with 500 having a valid start date of December 1 until the end of the waterfowl season, establish a new unit with 250 nonresident waterfowl licenses that includes all of the state except counties in Units NRW-00A, NRW-11A, NRW-00X, and NRW-00Y, and make all temporary nonresident waterfowl licenses valid on private land only except those in Unit NRW-00Y; amend a Black Hills Deer Hunting Season rule to adjust the number of licenses; amend West River Deer Hunting Season rules to adjust the number of licenses, discontinue the split seasons for Gregory and Mellette counties and align with the regular West River deer season, and change the season date for Unit 24B (Little Moreau); amend East River Deer Hunting Season rules to adjust the number of licenses, create a new Limited Access Unit (Unit 13L) that would be restricted to Corp of Engineers property, all Game Production Areas, and the Elm Creek Lakeside Use Area</p>

	<p>immediately adjacent to the Missouri River, all in Brule County, and the Pease Game Production Area in southwest Buffalo County, modify Unit 13A to include all of Brule County excluding that portion located with Unit 13L, and modify Unit 14A to include all of Buffalo County excluding the Pease Game Production Area located within Unit 13L; amend Archery Deer Hunting Season rules to close units 17A, 25A, 41A, 50A, and 58A and open units 44A and 62A, all in Unit ARD-LM1, and extend the season closing date for archery deer hunting in Sand Lake National Wildlife Refuge from December 31 to January 15; amend a National Wildlife Refuge Deer Hunting Season rule to adjust the number of licenses for LaCreek National Wildlife Refuge and Waubay National Wildlife Refuge and restrict all licenses within Waubay National Wildlife Refuge to muzzleloading rifles; amend a Custer State Park Deer Hunting Season rule to adjust the number of one-tag licenses, modify the season dates from 14 consecutive days beginning on the first Saturday of November to November 1-December 15 with hunting only by bow and arrow allowed from November 1-15 and hunting only by muzzleloader from December 1-15; amend a General Muzzleloading Deer Hunting Season rule to close units 17A, 25A, 41A, 50A, and 58A, and open units 44A and 62A, all in Unit MZD-LM1; and amend Custer State Park Non-Trophy Bison Harvest rules to change the season dates from 47 days beginning the second Monday in January to 47 days beginning the last Monday in October and reduce the number of cow licenses from five to zero; and amend a Trapping Prohibitions rule to clarify that both traps and snares are prohibited within 30 feet of exposed bait; 43 SDR 149, May 15, 2017.</p>
6-8-2017	<p>Department of Health: Board of Medical and Osteopathic Examiners Adopt rules to establish different options the Board has when it considers mirroring physician discipline from another state and establish continuing education as a requirement for physical therapy license renewal; 43 SDR 145, May 8, 2017.</p>
6-12-2017	<p>Department of Agriculture: State Fair Division Repeal rules that are duplicative, outdated, and unnecessary applying to the State Fair Park; 43 SDR 154, May 22, 2017.</p>
6-15-2017	<p>Secretary of State: Board of Elections Amend rules to specify a 30 day deadline date for a voter to return the invalid/incomplete voter registration acknowledgment notice; change the name of a "Secondary Election" to "Runoff Election;" add judicial office to be listed in the notice of deadline for filing nominating petitions for the primary election; add to the general election ballot "Legislative Research Council's Prison/Jail Population Cost Estimate and/or Fiscal Note;" add to the primary and general election ballot formats to include notations for front and reverse sides, clarifying ballot printing notes, adding an option for county finance officer, and providing the format for State Representative Districts 26 & 28 A and B and new primary and general election ballot formats; amend the tax levy opt-out ballot format to be used by county, municipality or school to provide clarification on the formats; create a new ballot format for capital outlay elections for school districts; create a new ballot format for school sentinel program elections; create a new ballot format to assist county auditors with ballot for tax levy ballots for maintaining repairing, constructing or reconstructing roads and bridges; clarify that a petition sheet must be printed on a self-contained sheet of paper printed front and reverse side; amend the rule for the random sample on statewide candidates and statewide ballot measures by replacing the 5% random sample requirement to a sample that is statistically correlative to not less than a 95% level of confidence with a margin of error equal to not more than 3.62%; repeal two petitions for conservation district candidates and amend the third</p>

	petition to change the candidates for district supervisors to run at large instead of by areas; amend the application for absentee voting to clarify what category of Uniformed Overseas Citizens Absentee Voter the applicant falls under and to simplify the application instructions; and remove language requiring an Uniformed Overseas Citizens Absentee Voter to provide their voting residence on the ballot return envelope; 43 SDR 153, May 22, 2017.
6-16-2017	Department of Health: State Board of Dentistry Amend rules to update the registration process for dental entities to bring it into compliance with SB 47 and repeal obsolete provisions; 43 SDR 146, May 8, 2017.
6-20-2017	Department of Public Safety Amend rules to adopt the 2015 edition of the National School Transportation Specifications and Procedures, adopt the 2017 Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria", revise the requirements for motorcycle safety education courses, remove the requirement of providing a social security number when transferring a compliant out of state driver's license to South Dakota, and updating the federal adoption to match statute; 43 SDR 153, May 22, 2017.
6-30-2017	Department of Labor and Regulation: Appraiser Certification Program Amend rules to define each appraiser classification; define a certificate, license and registration as a credential; modify certain language, re-structure sentences, and correct errors; allow reciprocal appraisers to be eligible to become supervisory appraisers without having to be certified in South Dakota for three years; and clarify that a state-registered appraiser is required to complete an examination prescribed by the secretary; 43 SDR 159, May 30, 2017.
7-14-2017	Department of Education: State Historical Society Amend rules to update reference materials; set standard fees for services provided; revise the museum rental fees; eliminate the fee for purchasing a USGS map; and correct a SDCL reference; 43 SDR 159, May 30, 2017.
7-20-2017	Department of Environment and Natural Resources: Board of Minerals and Environment Update the state's existing hazardous waste rules by incorporating updated, codified federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2012 through June 30, 2016. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, management standards for solvent-contaminated wipes, establishing a framework for the use of electronic manifests, revisions to requirements involving imports and exports of hazardous wastes, and incorporating technical and typographical corrections to the federal rules; 43 SDR 159, May 30, 2017.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on Monday, June 5, 2017, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor of the State Capitol. The other DDN site will be: Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145. The committee chair has set the following meeting schedule for the 2017 interim: July 17, August 22, September 25, and November 14.

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>.

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