

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

Administrative Rules Reduction

Commission Meeting Dates:	Public Hearing	June 7, 2012	Pierre
	Finalization	June 7-8, 2012	Pierre

COMMISSION PROPOSAL HIGHLIGHTS

ACTION ITEM #1

Repeal: Uses of Parks and Public Lands 41:03:01:06. Erection of signs -- Advertising -- Fences -- Prohibited. No person may post or erect signs, place or distribute advertising material, erect a fence or barrier, construct or occupy improvements, or enclose state-owned or controlled lands without written authorization from a representative of the department.

Justification: Consolidate with 41:03:01:10 (Action Item #2).

ACTION ITEM #2

Modify: Uses of Parks and Public Lands 41:03:01:10. Buildings, erection of signs, advertising and fences prohibited. No person may place, construct, ~~erect~~, or occupy any improvement or building or an addition attached to a trailer; post or erect signs, place or distribute advertising material, or erect a fence or barrier on lands owned, leased, managed, or controlled by the department or within the right-of-way of the George S. Mickelson Trail without written authorization from a representative of the department.

Justification: Modifying rule to include language from 41:03:01:10 (Action Item #1).

ACTION ITEM #3

Repeal: Uses of Parks and Public Lands 41:03:01:22 Use of forest products. A person may not cut, destroy, remove, or transport any forest products from lands under the control of the department except as authorized by the terms of a permit or contract.

Justification: Covered in 41:03:01:05

ACTION ITEM #4

Repeal: Uses of Parks and Public Lands 41:03:01:28 Restricted use of dam at East Vermillion Lake. No person may enter or walk upon the sloped portion of the primary spillway. The spillway is defined as the concrete area of the dam designed to discharge water from East Vermillion Lake into the Vermillion River.

Justification: Covered in 41:03:01:01

ACTION ITEM #5

Modify: Park License and Trail Use Pass Licenses 41:03:03:06.01. Annual park entrance license and annual trail use pass validity and expiration date. The annual park entrance license and annual trail use pass are ~~is~~ valid during the following periods of time:

- (1) Three months immediately preceding the calendar year for which it is issued;
- (2) The calendar year for which it is issued; and
- (3) Through the Sunday preceding Memorial Day weekend of the year following the year for which it is issued.

Justification: Modify rule to include annual trail use pass from rule 41:03:05:05 (Action Item #6).

ACTION ITEM #6

Repeal: George S. Mickelson Trail User Service Fees 41:03:05:05. Validity and expiration of annual trail user pass. An annual trail user pass is valid as follows:

- (1) Three months immediately preceding the calendar year for which it is issued;
- (2) The calendar year for which it is issued; and
- (3) Through the Sunday preceding the Memorial Day weekend of the year following the year for which it is issued.

Justification: Repeal rule as it has been consolidated with 41:03:03:06:01 (Action Item #5).

ACTION ITEM #7

Repeal: Motorboats and Watercraft 41:04:05:07 Definition of underway. A boat is underway when, while upon the public waters, it is not at anchor, aground, or made fast to the shore.

Justification: Covered in SDCL 42-8-2.1

ACTION ITEM #8

Modify: Application for License 41:06:01:10. Prior application preference. Fifty percent of any licenses which are limited in number and are issued by application and computer drawing are set aside for landowner applications as described in § 41:06:01:07, ~~unless otherwise provided in season rules except for Units BST-BH1, BST-BH2, and AST-ST1 of the Spring Turkey Season, Units BFT-BH1 and PFT-WR1 of the Fall Wild Turkey Hunting Season, Units in the Mountain Goat Season, and Units in the Black Hills Bighorn Sheep Season.~~ If an applicant is unsuccessful in drawing a license for a first-choice unit in the initial drawing for a specific season, the applicant receives a preference point for that season. Preference points shall be applied to the subsequent initial drawing application submitted by the applicant for the season in which the preference points were earned. An applicant who fails to submit an initial drawing application in a single season for a period of five consecutive years forfeits any preference points accrued for that season.

Modify: Spring Turkey Season 41:06:13:04. Application requirements and restrictions. The following applies to all applications for license and licenses issued under this chapter:

- ~~(3) Except for Units BST-BH1, BST-BH2, and AST-ST1, 50 percent of the licenses allocated for each unit are available to persons with land occupant preference;~~

Modify: Fall Wild Turkey Hunting Season 41:06:14:05. Application requirements and restrictions. The following applies to all applications for license and to all licensees under this chapter:

- ~~(2) Except in units BFT-BH1 and PFT-WR1, 50 percent of the licenses allocated for each unit are available to persons with land occupant preference;~~

Repeal: Black Hills Deer Season 41:06:19:07. Application requirements and restrictions. The following requirements and restrictions apply to all application for license under this chapter:

- (2) Fifty percent of the licenses allocated for each unit are available for land occupant preference

Repeal: West River Deer Season 41:06:20:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license under this chapter:

- (2) Fifty percent of the resident licenses allocated for each unit are available for land occupant preference;

Repeal: East River Deer Hunting 41:06:21:04. Application requirements and restrictions. The following applies to all applications for license under this chapter:

- (2) Fifty percent of the licenses allocated for each unit shall be available for land occupant preference;

Repeal: Antelope Hunting Season 41:06:23:05. Application requirements and restrictions. The following applies to all applications for license and licensees pursuant to this chapter:

- (2) Fifty percent of the licenses allocated for each unit shall be available to persons with land occupant preference; and

Justification: Address the issuance of landowner preference in one rule to avoid duplication in multiple chapters.

ACTION ITEM #9

Modify: License Forms and Fees 41:06:02:01:05 Nonresident small game license - Change of hunting period. A permit in lieu of a nonresident small game license shall be issued by any license agent of the department or authorized department representative if a nonresident small game licensee desires to change one or both five-day periods as specified on the licensee's nonresident small game hunting license. The permit may not be issued if the time period desired to be changed has already commenced. The original nonresident small game license shall be surrendered to the license agent or authorized department representative before a permit in lieu of nonresident small game license may be issued. The permit in lieu of nonresident small game license shall be issued without payment of a license fee; however, license agents may charge the license agent's fee established by SDCL [41-6-66.1](#) in issuing this permit.

Suggested New Language for Rule: If a nonresident small game licensee desires to change one or both five-day periods as specified on the licensee's nonresident small game hunting license, the licensee may change the periods through the online license system or any authorized license agent. An online revision of hunting periods for nonresident small game licenses shall be issued without payment of a license fee; authorized license agents may charge the license agent's fee established by SDCL [41-6-66.1](#) for revising nonresident small game license hunting periods.

Hunting periods may not be changed if the time period desired to be changed has already commenced.

Justification: The Department no longer issue permits in lieu if a hunter desires to change dates.

ACTION ITEM #10

Repeal: License Forms and Fees 41:06:02:02 Report required. Any hunter who receives a hunter report card shall complete the report card by providing the information requested and must deposit it in the mail within five days after the season ends or five days after receipt, whichever is later. Any hunter who receives a big game license shall place the incisor teeth from the big game animal killed and tagged in the envelope provided by the department and deposit the envelope in the mail within five days after the hunting season ends or five days after receipt of the envelope, whichever is later.

Justification: Not necessary to require submission of hunter report card and the Department is not collecting teeth samples through the mail.

ACTION ITEM #11

Modify: License Forms and Fees 41:06:02:04. Sale of lists of license holders ~~48 and over~~. The department may sell lists of its license holders, ~~which contain no names or addresses of persons under the age of 18 at the time of licensure.~~ With approval of specific applications by the commission, the department may sell lists of its license holders which contain the names and addresses of persons under the age of 18 at the time of licensure provided the commission finds that the use of the list is not for the purpose of mailing of information, solicitation, or any other use of mail and advertising services for the promotion or advertisement of any form of gambling, alcoholic beverages, or offensive or pornographic matters or materials.

Repeal: License Forms and Fees 41:06:02:05. Sale of lists of license holders containing names of persons under 18. With approval of specific applications by the commission, the department may sell lists of its license holders which contain the names and addresses of persons under the age of 18 at the time of licensure provided the commission finds that the use of the list is not for the purpose of

mailing of information, solicitation, or any other use of mail and advertising services for the promotion or advertisement of any form of gambling, alcoholic beverages, or offensive or pornographic matters or materials.

Justification: Combine the two rules which apply to the sales of license lists.

ACTION ITEM #12

Repeal: Custer State Park Restrictions 41:06:07:07 Road use restricted -- Exception. During any Custer State Park hunting season, a person may not drive or ride as a passenger in a motor vehicle on any road or trail except those roads which are specifically designated on the park hunting maps as being open to and usable by hunters' vehicles. State park vehicles are excepted.

Justification: Covered in 41:03:02:01

ACTION ITEM #13

New rule: Big game licenses issued are valid only for the unit for which they are issued and entitle the licensee to hunt and possess one animal as specified by each tag issued with the license.

Repeal: Spring Wild Turkey Hunting Season 41:06:13:03. Licenses valid only for unit issued -- Bag and possession limit. Licenses issued under this chapter are valid only for the unit for which they are issued and entitle the licensee to hunt and possess one wild turkey as specified by each tag issued with the license.

Repeal: Fall Wild Turkey Hunting Season 41:06:14:03. Bag and possession limit. The bag and possession limit is one wild turkey for each tag.

Modify: Fall Wild Turkey Hunting Season 41:06:14:04. Licenses valid for unit specified. ~~Licenses issued under this chapter are valid only for the unit for which they are issued.~~ In those units adjoining the Cheyenne River or White River licenses are valid also in the adjacent unit within one mile of the common river boundary.

Repeal: Custer State Park Spring Turkey Season 41:06:15:03. Bag and possession limit. Each licensee may hunt and possess one male wild turkey.

Modify: Black Hills Deer Season 41:06:19:04. Special deer licenses -- Submission of tooth envelope -- Report card -- License restriction. Special deer licenses valid November 1 to November 30, inclusive, are available by lottery to residents with an additional 8 percent of the special deer licenses available to nonresidents. ~~The special deer license entitles the licensee to hunt and possess one deer as specified in the unit for which the licensee receives a license.~~ The following is a description of the open units and the maximum number and type of licenses available in each unit:

Repeal: West River Deer Season 41:06:20:03. Licenses valid only for the unit, number, and type of deer specified. Licenses issued under this chapter are valid only for the number and type of deer specified. Licenses are valid only in the unit for which they are issued.

Repeal: East River Deer Season 41:06:21:03. License valid only for unit, number, and type of deer specified. Licenses issued under this chapter are valid only for the number of deer of the specified type and in the unit for which they are issued.

Repeal: Archery Deer Hunting Season 41:06:22:03. Licenses valid in specific unit -- Archery only. Licenses issued under this chapter are valid for the number and type of deer specified, by bow and arrow only. Licenses are valid only for the unit in which they are issued.

Repeal: Antelope Hunting Season 41:06:23:04. Licenses valid for unit specified -- Limit. Licenses issued under this chapter are valid only for the unit and the dates for which they are issued and entitle the licensee to hunt and possess the number and type of antelope specified.

Repeal: Archery Antelope Hunting Season 41:06:24:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess the number and type of antelope specified by the license taken by bow and arrow only.

Repeal: Custer State Park Antelope Hunting 41:06:25:03. License valid for dates and types specified. Licenses issued under this chapter entitle a licensee to hunt only during the period for which the license is issued and to possess one antelope.

Repeal: Black Hills Elk Hunting Season 41:06:26:03. Licenses valid for type of elk and unit specified. Licenses issued under this chapter are valid for one elk of the specified type and in the unit for which they are issued.

Repeal: Custer State Park Elk Hunting Season 41:06:27:03. License valid for dates and types specified. Licenses issued under this chapter entitle a licensee to hunt only during the period for which the license is issued and to possess one elk of the type for which the license is issued.

Repeal: Custer State Park Early Archery Elk Hunting Season 41:06:28:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess one elk, by archery only.

Repeal: National Wildlife Refuge Deer Hunting Seasons 41:06:36:03. Bag limit. A licensee may hunt and possess one deer per tag of the specified type taken in the unit for which the license is issued.

Repeal: Custer State Park Deer Hunting Season 41:06:41:03. Bag and possession limit. Any license issued under this chapter entitles the licensee to hunt and possess the number and specified type of deer for which the license was issued.

Repeal: Archery Elk Hunting Season 41:06:43:03. Bag and possession limit. A license issued under this chapter entitles the licensee to hunt and possess one elk taken by bow and arrow only.

Repeal: Youth Deer Hunting Season 41:06:44:03. Licenses valid only for number and type of deer specified. Licenses issued under this chapter are valid for one deer of the type specified.

Repeal: General Muzzleloading Deer Hunting Season 41:06:45:03. Licenses valid only for unit, number, and type of deer specified. Licenses issued under this chapter are valid only for the number of deer of the specified type and in the unit for which they are issued.

Repeal: Special Custer State Park Antlerless Elk Hunting Season 41:06:47:03. Licenses valid for the dates and types specified. Licenses issued under this chapter entitle a licensee to hunt only during the period for which the license is issued and to harvest and possess one antlerless elk.

Repeal: Custer State Park Late Archery Hunting Season 41:06:48:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess one elk, taken by archery only.

Repeal: Prairie Elk Hunting Season 41:06:59:03. Licenses valid for type of elk and unit specified. Licenses issued under this chapter are valid for one elk of the specified type and in the unit for which they are issued.

Repeal: Mountain Lion Hunting Season 41:06:61:05. Licenses valid only for unit specified. Any license issued under this chapter is only valid for the unit for which it was issued.

Justification: Create one rule which covers the criteria in which describes the validity of a license and reduce duplication amongst several chapters.

ACTION ITEM #14

New rule: An additional number of big game licenses may be issued to nonresident hunters for the West River Prairie Deer Season except for unit WRD-58D, all west river prairie units for the Spring Wild Turkey Hunting Season, Black Hills unit for the Fall Wild Turkey Hunting Season, Antelope Hunting Season, Black Hills Deer Season, and the National Wildlife Refuge Deer Seasons and will not exceed eight percent of the licenses established in each unit.

Modify: Spring Wild Turkey Season 41:06:13:02. Open units -- Number and type of licenses available. The following is a description of the open units and the number and type of licenses available in each unit:

~~An additional number of spring turkey licenses may be issued in the West River prairie units to nonresident applicants. The number may not exceed eight percent of the licenses established in each unit.~~

Modify: Fall Wild Turkey Season 41:06:14:02. Black Hills and West River prairie units -- Number and type of licenses available -- Exceptions. The following is a description of the open Black Hills unit and the open West River prairie units and the maximum number and type of licenses available in each unit:

~~An additional number of West River prairie turkey licenses may be issued to nonresident applicants in unit PFT-BH1. The number may not exceed 8 percent of the maximum number of licenses established in each unit.~~

Modify: Fall Wild Turkey Hunting Season 41:06:14:05. Application requirements and restrictions. The following applies to all applications for license and to all licensees under this chapter:

- ~~(1) Only residents of the state may apply for a license, except for the eight percent additional number of licenses available to nonresidents as provided in § 41:06:14:02;~~

Modify: Black Hills Deer Season 41:06:19:02. Open Unit -- Number and type of licenses available.

Four hundred "any deer" licenses and 3,500 "any whitetail deer" licenses are available by lottery to residents ~~with an additional 8 percent available to nonresidents.~~

Modify: Black Hills Deer Season 41:06:19:04. Special deer licenses -- Submission of tooth envelope -- Report card -- License restriction. Special deer licenses valid November 1 to November 30, inclusive, are available by lottery to residents ~~with an additional 8 percent of the special deer licenses available to nonresidents.~~ The special deer license entitles the licensee to hunt and possess one deer as specified in the unit for which the licensee receives a license. The following is a description of the open units and the maximum number and type of licenses available in each unit:

Repeal: Black Hills Deer Season 41:06:19:07. Application requirements and restrictions. The following requirements and restrictions apply to all application for license under this chapter:

- (1) Only residents of the state may apply for a license, except for the eight percent additional number of licenses available to nonresidents as provided in §§ 41:06:19:02 and 41:06:19:04;

Modify: West River Deer Season 41:06:20:02. Open units -- Number and type of licenses available -- Exceptions. The following is a description of the open units and the maximum number and types of resident licenses available in each unit:

~~An additional number of West River prairie deer hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit except for Unit WRD-58D.~~

Repeal: West River Deer Season 41:06:20:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license under this chapter:

- (1) Only residents of the state may apply for a license, except for the eight percent additional number of licenses available to nonresidents as provided in § 41:06:20:02;

Modify: Antelope Hunting Season 41:06:23:02. Antelope West River units -- Number and type of licenses available -- Exceptions. The following is a description of the West River units and the maximum number and types of licenses available in each unit:

~~An additional number of antelope hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit.~~

Modify: Antelope Hunting Season 41:06:23:03. East River units -- Number and type of licenses available -- Exceptions. The following is a description of the East River units and the maximum number and types of licenses available in each unit:

~~An additional number of antelope hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit.~~

Repeal: Antelope Hunting Season 41:06:23:05. Application requirements and restrictions. The following applies to all applications for license and licensees pursuant to this chapter:

- (1) Only residents of the state may apply for a license, except for the eight percent additional number of licenses available to nonresidents as provided in §§ 41:06:23:02 and 41:06:23:03;

Modify: National Wildlife Refuge Deer Hunting Seasons 41:06:36:02. Sand Lake open units -- Number and type of licenses available. The following is a description of the units open to deer hunting on the Sand Lake National Wildlife Refuge and the maximum number and type of licenses available in each unit:

~~An additional number of Sand Lake National Wildlife Refuge deer hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit.~~

Modify: National Wildlife Refuge Deer Hunting Seasons 41:06:36:02.01 Lacreek open units -- Number and type of licenses available. The following is a description of the units open to deer hunting on the Lacreek National Wildlife Refuge and the maximum number and type of licenses available in each unit:

~~An additional number of Lacreek National Wildlife Refuge deer hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit.~~

Modify: National Wildlife Refuge Deer Hunting Seasons 41:06:36:02.02. Waubay open units -- Number and type of licenses available. The following is a description of the units open to deer hunting on the Waubay National Wildlife Refuge and the maximum number and type of licenses available in each unit:

~~An additional number of Waubay National Wildlife Refuge deer hunting licenses may be issued to nonresident applicants. The number may not exceed eight percent of the maximum number of licenses established for each unit.~~

Repeal: National Wildlife Refuge Deer Hunting Seasons 41:06:36:04. Application requirements and restrictions. The following applies to all applications for license under this chapter:

- (1) Except for the nonresident licenses provided for in §§ 41:06:36:02, 41:06:36:02.01, and 41:06:36:02.02, only residents of the state may apply for a license.

Justification: Create one rule which addresses the issuance of the number of nonresident licenses available, with that level not to exceed 8% unless the exception is listed.

ACTION ITEM #15

Modify: Fall Turkey Hunting Season 41:06:14:05. Application requirements and restrictions. The following applies to all applications for license and to all licensees under this chapter:

- ~~(4) A person may not shoot a turkey that is in a tree or roost; and~~

Justification: This rule is covered in 41:06:04:15.

ACTION ITEM #16

Modify: Black Hills Deer Season 41:06:19:04. Special deer licenses -- Submission of tooth envelope -- Report card -- License restriction.

~~Each successful licensee shall submit the two front incisor teeth in the tooth envelope provided and the hunter report card to the department within 48 hours following the kill. Unsuccessful licensees shall submit the hunter report card within 48 hours following the close of the special deer season.~~

Justification: Not necessary to require submission of hunter report card and the Department is not collecting teeth samples through the mail.

ACTION ITEM #17

Repeal: Black Hills Deer Hunting Season 41:06:19:07. Application requirements and restrictions. The following requirements and restrictions apply to all application for license under this chapter:

(3) In units with more than one type of license available, applications shall list each type as a unit subdivision.

Justification: Bullet 3 is not needed. Applicants submitting incomplete applications are contacted by the Department to address the issue.

ACTION ITEM #18

Repeal: West River Deer Season 41:06:20:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license under this chapter:

(3) In units with more than one type of license available, applications must list each type as a unit subdivision;

(4) A qualifying landowner-operator and any member of the immediate family of the qualifying landowner-operator, who meets the requirements of § 41:06:01:07 to submit a landowner preference application and has not obtained a big game license that permits the harvest of a buck during the West River prairie deer season pursuant to SDCL [41-6-19](#), may apply for and receive one "any deer" license or one two-tag license valid for one "any deer" and one "antlerless deer" valid only on lands owned or leased for agricultural purposes within any unit of the West River deer hunting season.

Justification: Bullet 3 is not necessary (applicants submitting incomplete applications are contacted by the Department to address the issue) and bullet 4 is covered in state law.

ACTION ITEM #19

Repeal: East River Deer Season 41:06:21:04. Application requirements and restrictions. The following applies to all applications for license under this chapter:

(1) Only residents of the state may apply for a license. However, nonresidents may apply for any unsold licenses left, after the initial first-come, first-served period established for residents;

(3) In units with more than one type of license available, applications shall list each type as a unit subdivision;

(4) A qualifying landowner-operator and any member of the immediate family of the qualifying landowner-operator, who meets the requirements of § 41:06:01:07 to submit a landowner preference application and has not obtained a big game license that permits the harvest of a buck during the East River deer season pursuant to SDCL [41-6-19](#), may apply for and receive one "any deer" license or one two-tag license valid for one "any deer" and one "antlerless deer" valid only on lands owned or leased for agricultural purposes within any unit of the East River deer hunting season.

Justification: Bullet (1) is covered in 41:06:01:09, bullet (3) is not necessary (applicants submitting incomplete applications are contacted by the Department to address the issue), and bullet (4) is covered in state law.

ACTION ITEM #20

New rule: Licenses issued under the Archery Deer, Archery Antelope, Custer State Park Early Archery Elk, Archery Elk, and Custer State Park Late Archery Elk seasons are valid by the use of bow and arrow only.

Repeal: Archery Deer Hunting Season 41:06:22:03. Licenses valid in specific unit -- Archery only. Licenses issued under this chapter are valid for the number and type of deer specified, by bow and arrow only. Licenses are valid only for the unit in which they are issued. (repealed in Action Item #13)

Repeal: Archery Antelope Hunting Season 41:06:24:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess the number and type of antelope specified by the license taken by bow and arrow only. (repealed in Action Item #13)

Repeal: Custer State Park Early Archery Elk Hunting Season 41:06:28:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess one elk, by archery only. (repealed in Action Item #13)

Repeal: Archery Elk Hunting Season 41:06:43:03. Bag and possession limit. A license issued under this chapter entitles the licensee to hunt and possess one elk taken by bow and arrow only. (repealed in Action Item #13)

Repeal: Custer State Park Late Archery Elk Hunting Season 41:06:48:03. Bag and possession limit -- Archery only. Licenses issued under this chapter entitle the licensee to hunt and possess one elk, taken by archery only. (repealed in Action Item #13)

ACTION ITEM #21

Repeal: Archery Deer Hunting Season 41:06:22:06. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (1) Receipt of a license does not affect eligibility for other licenses issued under article 41:06
- (2) Land operator preference is not applicable to these licenses.

Justification: Landowner preference is not relevant to statewide seasons and receiving an archery deer tag has no bearing on drawing a license within another hunting season.

ACTION ITEM #22

Repeal: Antelope Hunting Season 41:06:23:05. Application requirements and restrictions. The following applies to all applications for license and licensees pursuant to this chapter:

- (3) A qualifying landowner-operator and any member of the immediate family of the qualifying landowner-operator, who meets the requirements of § 41:06:01:07 to submit a landowner preference application and has not obtained a big game license that permits the harvest of a buck during the firearm antelope season pursuant to SDCL 41-6-19, may apply for and receive one "any antelope" license or one two-tag license valid for one "any antelope" and one "doe-fawn antelope" valid only on lands owned or leased for agricultural purposes within any unit of the firearm antelope hunting season.

Justification: Rule is covered in state law.

ACTION ITEM #23

Modify: Custer State Park Antelope Hunting Season 41:06:25:01. Custer State Park antelope hunting season established. The Custer State Park antelope hunting season is open within the boundaries of Custer State Park. ~~However, no person may hunt antelope within 440 yards of any numbered Custer State Park road located within the park.~~

Justification: This is covered in 41:06:07:10

ACTION ITEM #24

New Rule: Elk Application requirements. The following requirements and restrictions apply to all applications for license for the Black Hills Elk Season, Archery Elk Hunting Season, and Prairie Elk Hunting Season.

- (1) Only residents of the state may apply for license;
- (2) Except for qualifying landowner-operator applicants, and except as provided in § 41:06:01:09, a person who received an elk hunting license in this season in the first lottery drawing in any of the nine preceding years may not apply for a license under this chapter for the next nine years;
- (3) Fifty percent of the licenses are available to persons who qualify for landowner-operator preference under the provisions of SDCL 41-6-21. A minimum of 240 acres of land within an elk unit which has had at least 500 days of elk use since the last day of the previous application period is required to qualify. An elk use day is any day an elk feeds or waters on private land. For purposes of elk preference eligibility, members of the qualifying landowner-operator's family including grandparents, parents, spouse, children, children's spouse, or grandchildren who live on the ranch or in the closest community and have an active role in the ranch operation also qualify. Only one qualifying applicant per ranch unit per year may apply for a landowner-operator preference elk license. A ranch unit is described as all private property owned and leased for agricultural purposes by written agreement by an individual qualifying landowner in the state. A ranch unit may not be subdivided for the purpose of qualifying for more than one landowner-operator preference

Repeal: Black Hills Elk Hunting Season 41:06:26:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (1) Only residents of the state may apply for license;
- (2) Except for qualifying landowner-operator applicants, and except as provided in § 41:06:01:09, a person who received an elk hunting license in this season in the first lottery drawing in any of the nine preceding years may not apply for a license under this chapter for the next nine years;
- (3) Fifty percent of the licenses are available to persons who qualify for landowner-operator preference under the provisions of SDCL 41-6-21. A minimum of 240 acres of land within an elk unit which has had at least 500 days of elk use since the last day of the previous application period is required to qualify. An elk use day is any day an elk feeds or waters on private land. For purposes of elk preference eligibility, members of the qualifying landowner-operator's family including grandparents, parents, spouse, children, children's spouse, or grandchildren who live on the ranch or in the closest community and have an active role in the ranch operation also qualify. Only one qualifying applicant per ranch unit per year may apply for a landowner-operator preference elk license. A ranch unit is described as all private property owned and leased for agricultural purposes by written agreement by an individual qualifying landowner in the state. A ranch unit may not be

subdivided for the purpose of qualifying for more than one landowner-operator preference;

Repeal: Archery Elk Hunting Season 41:06:43:04. Restrictions for applications and licenses. The following restrictions apply to all applications for license and to all licensees under this chapter:

- (1) Only residents of the state may apply for license;
- (2) Fifty percent of the licenses are available to persons who qualify for landowner-operator preference under the provisions of SDCL ~~41-6-21~~. A minimum of 240 acres of land within an elk unit which has had at least 500 days of elk use since the last day of the previous application period is required to qualify. An elk use day is any day an elk feeds or waters on private land. For purposes of elk preference eligibility, members of the qualifying landowner-operator's family including grandparents, parents, spouse, children, children's spouse, or grandchildren who live on the ranch or in the closest community and have an active role in the ranch operation also qualify. Only one qualifying applicant per ranch unit per year may apply for a landowner-operator preference elk license. A ranch unit is described as all private property owned and leased for agricultural purposes by written agreement by an individual qualifying landowner in the state. A ranch unit may not be subdivided for the purpose of qualifying for more than one landowner-operator preference;
- (3) Successful applicants are determined by lottery;
- (4) Except as provided in § 41:06:01:09, a person who receives a license for this season in the first lottery drawing in any of the nine preceding years may not apply for an elk license under this chapter for the next nine years

Repeal: Prairie Elk Hunting Season 41:06:59:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (1) Only residents of the state may apply for a license;
- (2) Except for qualifying landowner-operator applicants as provided in this section, and except as provided in § 41:06:01:09, a person who received an elk hunting license in this season in the first lottery drawing in any of the nine preceding years may not apply for a license under this chapter for the next nine years;
- (3) A person who received a firearm elk license in Bennett County or Gregory County during the year 1992 through 2000, inclusive, may apply for a license under this chapter;
- (4) Fifty percent of the licenses are available to persons who qualify for landowner-operator preference under the provisions of SDCL ~~41-6-21~~. A minimum of 240 acres of land within an elk unit which has had at least 500 days of elk use since the last day of the previous application period is required to qualify. An elk use day is any day an elk feeds or waters on private land. For purposes of elk preference eligibility, members of the qualifying landowner-operator's family including grandparents, parents, spouse, children, children's spouse, or grandchildren who live on the ranch or in the closest community and have an active role in the ranch operation also qualify. Only one qualifying applicant per ranch unit per year may apply for a landowner-operator preference elk license. A ranch unit is described as all private property owned and leased for agricultural purposes by written agreement by an individual qualifying landowner in the state. A ranch unit may not be subdivided for the purpose of qualifying for more than one landowner-operator preference

Justification: Place all application requirements in one rule to avoid duplication amongst chapters.

ACTION ITEM #25

New rule: Mandatory inspection of harvested elk. Each successful elk hunter must submit the elk for inspection to a Department representative within 24 hours after kill.

Repeal: Black Hills Elk Hunting Season 41:06:26:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (4) Each successful hunter must submit the elk for inspection by a conservation officer or the conservation officer's designee within 24 hours after kill;

Repeal: Custer State Park Elk Hunting Season 41:06:27:05. Mandatory inspection. Elk harvested under this chapter must be inspected by a designated park official within 24 hours of kill.

Repeal: Custer State Park Early Archery Elk Hunting Season 41:06:28:05. Mandatory inspection. Elk harvested under this chapter must be inspected by a designated park official within 24 hours after kill.

Repeal: Archery Elk Hunting Season 41:06:43:04. Restrictions for applications and licenses. The following restrictions apply to all applications for license and to all licensees under this chapter:

- (5) Each successful hunter must have the elk inspected by a conservation officer or the conservation officer's designee within 24 hours after kill

Repeal: Special Custer State Park Antlerless Elk Hunting Season 41:06:47:04. Mandatory inspection. Elk harvested under this chapter must be inspected within 24 hours after the kill by a designated park official.

Repeal: Custer State Park Late Archery Elk Hunting Season 41:06:48:04. Mandatory inspection. Elk harvested under this chapter must be inspected by a designated park official within 24 hours after kill.

Repeal: Prairie Elk Hunting Season 41:06:59:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (5) Each successful hunter must submit the elk for inspection by a conservation officer or the conservation officer's designee within 24 hours after kill

Justification: Create one rule which requires the mandatory inspection of all harvested elk to reduce repetition amongst several rules.

ACTION ITEM #26

Repeal: Black Hills Elk Hunting 41:06:26:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (5) Each unsuccessful hunter must mail the report card to the department within 10 days after the close of the elk season in the unit for which the license is issued.

Justification: Not necessary to require submission of harvest report cards.

ACTION ITEM #27

Modify: Mountain Goat Hunting Season 41:06:29:04. Application requirements and restrictions. Application for license may be made by any resident who has not been previously issued a mountain goat license in this state. ~~Land occupant preference does not apply to mountain goat licenses.~~

Justification: Landowner reference is not needed as it does not apply to the Mountain Goat season.

ACTION ITEM #28

Repeal: Custer State Park Bighorn Sheep Hunting Season 41:06:30

Justification: Repeal the entire chapter and include with the Black Hills Bighorn Sheep chapter when hunting resumes within the Custer State Park.

ACTION ITEM #29

Repeal: Custer State Park Fall Wild Turkey Hunting Season 41:06:38

Justification: There has not been a season since 1994 and if needed could include as a unit within the Fall Turkey Season.

ACTION ITEM #30

Repeal: Archery Elk Hunting Season 41:06:43:04. Restrictions for applications and licenses. The following restrictions apply to all applications for license and to all licensees under this chapter:

- (6) Each unsuccessful hunter must mail the report card to the department within 10 days after the close of the season.

Justification: Not necessary to require submission of harvest report cards.

ACTION ITEM #31

Modify: General Muzzleloading Deer Hunting Season 41:06:45:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license under this chapter:

- ~~(3) Receipt of a license for this season does not affect eligibility for a license in any other season; and~~
- ~~(4) Land operator preference is not applicable for these licenses.~~

Justification: Bullet 3 is not needed in rule and bullet 4 is not needed as this is a statewide season and landowner preference does not apply.

ACTION ITEM #32

Repeal: Depredation Permits 41:06:46:08. Hunter report card. The department shall supply the permittee with a hunter report card. The permittee must complete and return the report card to the department within ten days after completion of the depredation hunt. If the report card is not completed and returned to the department within the required time, the hunter may be excluded from the depredation hunter pool list the following year.

Justification: Not necessary to require the submission of the report card as often data is collected on site.

ACTION ITEM #33

Repeal: Prairie Elk Hunting Season 41:06:59:04. Application requirements and restrictions. The following requirements and restrictions apply to all applications for license and to all licensees under this chapter:

- (6) Each unsuccessful hunter must mail the report card to the department within 10 days after the close of the elk season in the unit for which the license is issued.

Justification: Not necessary to require submission of harvest report cards.

ACTION ITEM #34

Modify: Muskrat Trapping Season Established ~~West River Muskrat Trapping Season Established~~
41:08:01:02.

- (1) West River muskrat trapping season ~~established~~ ~~---Exception~~. The season is open the year around to trap muskrat in all counties west of the Missouri River except in that portion of the Black Hills Fire Protection District south of Interstate 90.
- (2) Muskrat Trapping Season in the Black Hills - The season is open from sunrise on the first Saturday in November to sunset on April 30 to trap muskrats in that portion of the Black Hills Fire Protection District south of Interstate 90 and west of State Highway 79. The season is open the year around to trap muskrats in that portion of the Black Hills Fire Protection District north of Interstate 90.
- (3) East River Muskrat Trapping Season - East River muskrat trapping season established. The season is open from sunrise on the first Saturday of November to sunset on April 30 to trap muskrats in that portion of the state lying east of the Missouri River.

Repeal: Muskrat Trapping Season Established in Black Hills Fire Protection District
41:08:01:03. Muskrat trapping season established in Black Hills Fire Protection District. The season is open from sunrise on the first Saturday in November to sunset on April 30 to trap muskrats in that portion of the Black Hills Fire Protection District south of Interstate 90 and west of State Highway 79. The season is open the year around to trap muskrats in that portion of the Black Hills Fire Protection District north of Interstate 90.

Repeal: East River Muskrat Trapping Season Established 41:08:01:04. East River muskrat trapping season established. The season is open from sunrise on the first Saturday of November to sunset on April 30 to trap muskrats in that portion of the state lying east of the Missouri River.

Justification: Consolidate all muskrat trapping season rules into one rule.

ACTION ITEM #35

Modify: ~~Open Season On Skunks and Opossum~~ Skunk, opossum, fox, raccoon, and badger trapping and hunting season established. 41:08:01:08.02. ~~Open season on skunks and opossum.~~ The season is open the year around to hunt or trap skunks, opossum, fox, raccoon, and badger.

Repeal: Fox, Raccoon, and Badger Trapping and Hunting Season Established
41:08:01:08.04. Fox, raccoon, and badger trapping and hunting season established. The season is open the year around to hunt or trap fox, raccoon, and badger.

Justification: Consolidate these two rules as same season date applies to all five furbearers for both trapping and hunting.

ACTION ITEM #36

Repeal: Chapter 41:08:04 Protected Furbearing Animals

Justification: The chapter is not necessary as the animals described are protected as either an animal listed as a state threatened or endangered species or through a closed season. Incidental captures are covered in rule 41:08:02:12.

ACTION ITEM #37

Repeal: Bait 41:09:04:08. Bait transportation requirements. A person may not transport more than 12 dozen baitfish or other gill-breathing animals directly from the waters from which the baitfish or gill-breathing animals were taken in a container containing less than 50 gallons of water except in containers equipped with temperature control and aeration equipment or in controlled environment containers capable of maintaining sufficient oxygen to support fish life.

Justification: This rule is not needed as it is in the best interest of transporting bait to ensure the equipment used will not result in unnecessary loss of bait.

ACTION ITEM #38

Repeal: Bait 41:09:04:09. Keeping of bait restricted. A person may not keep more than 12 dozen baitfish or other gill-breathing animals in a container unless it is equipped with aerating equipment or is provided with a continuous flow of water sufficient to maintain dissolved oxygen in a quantity adequate to maintain the baitfish or gill-breathing animals in good condition.

Justification: Specifying equipment requirements for keeping baitfish serves no purpose as it is in the best interest of the owner of the bait to ensure the bait is in adequate condition to survive.

ACTION ITEM #39

Repeal: Bait 41:09:04:10. Evidence of violation. A loss in excess of one quart of bait for every 50 gallons of water or portion of 50 gallons in a container used for keeping or transporting bait is prima facie evidence of a violation of § 41:09:04:08, 41:09:04:09, or 41:09:04:11.

Justification: This rule is not needed as it pertains to evidence a violation of 41:09:04:08 or 41:09:04:09 has occurred and both rules are being recommended for repeal. Also, any loss of baitfish of this magnitude likely would be the result of equipment failure and not a good basis for issuance of a citation.

ACTION ITEM #40

Repeal: Bait 41:09:04:13. Transportation of sucker spawn or frogs prohibited. A person may not transport or ship sucker spawn or frogs from the state unless authorized by the department secretary.

Justification: The issues this rule was promulgated to address no longer exist. Leopard frogs are currently the only legal species of frogs that may be taken as bait and they are abundant in the state.

ACTION ITEM #41

Repeal: Private Fish Hatcheries 41:09:07:01. Applicability of chapter. This chapter applies to licensing and operation of a private fish hatchery under SDCL 41-6-39.

Justification: An administrative rule simply specifying the SDCL granting the Commission authority to promulgate rules for regulation of private fish hatcheries is not needed.

ACTION ITEM #42

Modify: Private Fish Hatcheries 41:09:07:02. Hatchery license types and fees. The license types and fees for a private fish hatchery license are as follows:

(1) An aquaculture license authorizes the licensee to sell, possess, transport, propagate, rear, or produce live fish or any fish reproductive product for commercial purposes in any facility, man-made water, or natural water, approved by the department. The licensee and any licensee's employee may possess and use special netting equipment only in a facility and water approved under this license. The licensee may provide fishing for a fee or pecuniary consideration or advantage at each facility and water approved under this license only. The fee for a new aquaculture license is \$275 plus a one-time inspection fee of \$300 for each facility, man-made water, or natural water requiring department approval. The annual fee to renew an existing aquaculture license is

\$275. A one-time inspection fee of \$300 shall be charged for each new facility, man-made water, or natural water requiring department approval for addition to an existing license. Any newly created waters may be exempted from the one-time inspection fee at the discretion of the department.

(2) A fee fishing license authorizes the licensee to stock, manage, and hold fish in any facility, man-made water, or natural water approved by the department for the purpose of providing fishing for a fee or pecuniary consideration or advantage. The licensee and any licensee's employee may possess and use special netting equipment only in a facility and water approved under this license. The fee for a new fee fishing license is \$150 plus a one-time inspection fee of \$300 for each facility, man-made water, or natural water requiring department approval. The annual fee to renew an existing fee fishing license is \$150. A one-time inspection fee of \$300 shall be charged for each new facility, man-made water, or natural water requiring department approval for addition to an existing license.

A private fish hatchery license expires January 31 of the calendar year directly following the year in which the license was issued.

Repeal: Private Fish Hatcheries 41:09:07:03. License expiration. A private fish hatchery license expires January 31 of the calendar year directly following the year in which the license was issued.

Justification: Text from this rule establishing the expiration date for fish hatchery licenses can be included in 41:09:07:02 to simply by consolidating rules.

ACTION ITEM #43

Repeal: Private Fish Hatcheries 41:09:07:03.01. Application for license.

A person shall apply for a private fish hatchery license on forms provided by the department.

Any existing license renewal or request to add a new facility or water to an existing license shall be submitted to the department before January 1 of the year the license is requested. All information requested on the application form shall be complete for the application to be considered.

Justification: A rule to specify that people must apply for a private fish hatchery license on forms provided by the Department is not needed.

ACTION ITEM #44

Repeal: Nursing Home Group Fishing 41:09:14:03. No other license required. Nursing home residents who are lawfully fishing under SDCL 41-6-37.2 and this chapter, are not required to possess any other license.

Justification: Rule is not needed as covered in state law.

List of Chapters and Rules modified and/or repealed.

Uses of Parks and Public Lands	41:03:01:06	Repeal
Uses of Parks and Public Lands	41:03:01:10	Modify
Uses of Parks and Public Lands	41:03:01:22	Repeal
Uses of Parks and Public Lands	41:03:01:28	Repeal
Park Licenses	41:03:03:06:01	Modify
George S. Mickelson Trail user service fees	41:03:05:05	Repeal
Motorboats and Watercraft	41:04:05:07	Repeal
Application for License	41:06:01:10	Modify
License Forms and Fees	41:06:02:01:05	Modify
License Forms and Fees	41:06:02:02	Repeal

License Forms and Fees	41:06:02:04	Modify
License Forms and Fees	41:06:02:05	Repeal
Custer State Park restrictions	41:06:07:07	Repeal
Spring Wild Turkey Hunting Season	41:06:13:02	Modify
Spring Wild Turkey Hunting Season	41:06:13:03	Repeal
Spring Wild Turkey Hunting Season	41:06:13:04	Modify
Fall Wild Turkey Hunting Season	41:06:14:02	Modify
Fall Wild Turkey Hunting Season	41:06:14:03	Repeal
Fall Wild Turkey Hunting Season	41:06:14:04	Modify
Fall Wild Turkey Hunting Season	41:06:14:05	Modify
Custer State Park Spring Turkey Season	41:06:15:03	Repeal
Black Hills Deer Hunting Season	41:06:19:02	Modify
Black Hills Deer Hunting Season	41:06:19:04	Modify
Black Hills Deer Hunting Season	41:06:19:07	Repeal
West River Prairie Deer Season	41:06:20:02	Modify
West River Prairie Deer Season	41:06:20:03	Repeal
West River Prairie Deer Season	41:06:20:04	Repeal
East River Deer Season	41:06:21:03	Repeal
East River Deer Season	41:06:21:04	Repeal
Archery Deer Hunting Season	41:06:22:03	Repeal
Archery Deer Hunting Season	41:06:22:06	Repeal
Antelope Hunting Season	41:06:23:02	Modify
Antelope Hunting Season	41:06:23:03	Modify
Antelope Hunting Season	41:06:23:04	Repeal
Antelope Hunting Season	41:06:23:05	Repeal
Archery Antelope Hunting Season	41:06:24:03	Repeal
Custer State Park Antelope Season	41:06:25:01	Modify
Custer State Park Antelope Season	41:06:25:03	Repeal
Black Hills Elk Hunting Season	41:06:26:03	Repeal
Black Hills Elk Hunting Season	41:06:26:04	Repeal
Custer State Park Elk Hunting Season	41:06:27:03	Repeal
Custer State Park Elk Hunting Season	41:06:27:05	Repeal
CSP Early Archery Elk Season	41:06:28:03	Repeal
CSP Early Archery Elk Season	41:06:28:05	Repeal
Mountain Goat Hunting Season	41:06:29:04	Modify
CSP Bighorn Sheep Hunting Season	41:06:30	Repeal (Chapter)
National Wildlife Refuge Deer Seasons	41:06:36:02	Modify
National Wildlife Refuge Deer Seasons	41:06:36:02.01	Modify
National Wildlife Refuge Deer Seasons	41:06:36:02.02	Modify
National Wildlife Refuge Deer Seasons	41:06:36:03	Repeal
National Wildlife Refuge Deer Seasons	41:06:36:04	Repeal
Custer State Park Fall Turkey Season	41:06:38	Repeal (Chapter)
Custer State Park Deer Season	41:06:41:03	Repeal
Archery Elk Hunting Season	41:06:43:03	Repeal
Archery Elk Hunting Season	41:06:43:04	Repeal
Youth Deer Season	41:06:44:03	Repeal
General Muzzleloading Deer Season	41:06:45:03	Repeal
General Muzzleloading Deer Season	41:06:45:04	Modify
Depredation Permits	41:06:46:08	Repeal
Special CSP antlerless elk season	41:06:47:03	Repeal
Special CSP antlerless elk season	41:06:47:04	Repeal
CSP Late Archery Elk Season	41:06:48:03	Repeal
CSP Late Archery Elk Season	41:06:48:04	Repeal
Prairie Elk Hunting Season	41:06:59:03	Repeal
Prairie Elk Hunting Season	41:06:59:04	Repeal
Mountain Lion Hunting Season	41:06:61:05	Repeal
Furbearer Seasons	41:08:01:02	Modify
Furbearer Seasons	41:08:01:03	Repeal
Furbearer Seasons	41:08:01:04	Repeal

Furbearer Seasons	41:08:01:08.02	Modify
Furbearer Seasons	41:08:01:08.04	Repeal
Protected Furbearing Animals	41:08:04	Repeal (Chapter)
Bait	41:09:04:08	Repeal
Bait	41:09:04:09	Repeal
Bait	41:09:04:10	Repeal
Bait	41:09:04:13	Repeal
Private Fish Hatcheries	41:09:07:01	Repeal
Private Fish Hatcheries	41:09:07:02	Modify
Private Fish Hatcheries	41:09:07:03	Repeal
Private Fish Hatcheries	41:09:07:03.01	Repeal
Nursing Home Group Fishing	41:09:14:03	Repeal

SUPPORTIVE INFORMATION

Rules Repealed: 54
 Rules Modified: 24
 New Rules (consolidating rules): 5
 Chapters Repealed: 3 (total of 8 rules removed)