

NOTICE OF MEETING

GAME, FISH, AND PARKS COMMISSION NOTICE OF SPECIAL TELECONFERENCE MEETING

A public meeting of the South Dakota Game, Fish, and Parks Commission will be held by Teleconference on Thursday May 22, 2014, commencing at the hour of 11 AM CDT (10 AM MDT) to consider the following proposed agenda, and any other matters which may come before the Commission:

Call to order

Roll Call for Attendance

Division of Wildlife

Action Item:

Petition to Repeal three Trapping Rules

Adjourn

At such time, except for executive or closed portions of such meeting, there will be provided a place where the public may **listen** to the proceedings. The locations are the Game, Fish, and Parks Large Conference Room located on the 2nd Floor of the Joe Foss Building, 523 East Capitol Ave, Pierre, SD; the Outdoor Campus Regional Office, at 4500 S Oxbow Ave, Sioux Falls, SD; and the Outdoor Campus Regional Office at 4130 Adventure Trail, Rapid City, SD.

Dated this 15th day of May, 2014.

s/b John Cooper

Commission Chairman

Call in information:
1-866-410-8397
code: 6057733718

Petition to Repeal ARSD 41:08:02:01, ARSD 41:08:02:13, and ARSD 41:08:02:14

To: GFP Commission
From: Brian Reynolds

Date: May 2, 2014

re. Repeal of **three** unauthorized trapping prohibitions / restrictions.

In accordance with SDCL 1-26-13 I am submitting the following petition for the removal of ARSD 41:08:02:01, ARSD 41:08:02:13 and ARSD 41:08:02:14 for the following reasons.

1. According to SDCL trapping equipment may only be restricted if that equipment poses a threat to the "safety or welfare of people or wildlife resources", see SDCL 41-2-18 (14) attached, which is controlling. An unset trap, stake, chain, or other device to which a trap may be attached can not injure or pose a threat to any person or wildlife resource. Therefore any restriction on unset traps, stakes, or other devices to which a trap may be attached is not allowed and therefore the gfp has/had no authority to promulgate or establish any rule restricting their use.

2. The present rules (ARSD 41:08:02:13 and ARSD 41:08:02:14 attached) pertaining to the removal or placement of trapping devices are therefore not in accordance with our statutes and we want these rules repealed in their entirety. The gfp had no authority to promulgate these present rules and is therefore in violation of our hunter harassment law SDCL 41-1-8 (attached) by telling our trappers that they must remove these items and that these items may not be placed before the opening of the mink season.

3. ARSD 41:08:02:01 prevents our trappers from placing coyote or fox traps within 30 ft of water during the month of October. However according to SDCL 41-8-20 (attached) the season for coyote is required to be open year round. By establishing this restriction the gfp is closing (or partially closing) the season for coyote trapping near water in October, and this is not allowed by our states law.

4. In light of the above at this time I would like to formally petition the GFP commission iaw SDCL 1-26-13 for the repeal of ARSD 41:08:02:01, ARSD 41:08:02:13 and ARSD 41:08:02:14 for the following reasons.

- a) None of these rules conform to our SDCL.
- b) These rules prevent our trappers from preparing their traplines.
- c) These rules prevent our trappers from trapping on public lands in October when the trapping season for predators is required to be open by SDCL 41-8-20.
- d) By establishing these rules the gfp is preventing our trappers from effectively trapping coyote, raccoon, skunk, and opossum on public land in October. These fur-bearers have value at this time of the year and their removal will help to eliminate our nest predators which have been shown (see attachment) to have a detrimental effect on our pheasant population.
- e) The gfp had no authority to promulgate or establish these rules according to SDCL

41-2-18 (14).

- f) These rules impair the ability of our trappers to earn income from their trade and as such these rules have an economic impact on our small business owners. In addition these restrictions impair the ability of our farmers, ranchers, and landowners to provide for the protection of their livestock and property. During the promulgation of these rules I did not see any Small Business Economic Impact Statement from either the gfp or the LRC. So I do not believe this was considered (as it is required to be) before the rules were adopted.

Please take the appropriate steps to initiate this petition at this time. If you have any questions or need additional information please contact me.

Thank you,

Brian Reynolds
Monroe, SD

Attachments.

41:08:02:01. Water-sets prohibited -- Dates -- Exceptions. No person may set a trap within 30 feet of water from October 1 to the opening of the mink season, inclusive. However, any live trap, snare, and trap designed specifically to catch raccoons such as Coon Cuffs, Duffer Coon Trap, Lil' Grizz Coon Trap, The Egg Trap, and CSP Bandit Buster may be used. In addition, body grip or killer traps set in accordance with § 41:08:02:06 may be used for beaver in all counties west of the Missouri River except that portion of the Black Hills Fire Protection District described in § 41:08:01:07.

Source: SL 1975, ch 16, § 1; 1 SDR 26, effective September 11, 1974; repealed, 7 SDR 21, effective September 15, 1980; readopted, 16 SDR 32, effective August 20, 1989; 17 SDR 23, effective August 16, 1990; 19 SDR 17, effective August 12, 1992; 30 SDR 21, effective August 25, 2003; 32 SDR 31, effective August 29, 2005; 38 SDR 8, effective August 3, 2011; 39 SDR 10, effective August 1, 2012.

General Authority: SDCL [41-2-18\(14\)](#), [41-8-20](#).

Law Implemented: SDCL [41-2-18\(14\)](#), [41-8-20](#).

41:08:02:13. Traps to be rendered inoperable -- Removal of trapping devices. All traps shall be rendered inoperable and all snares shall be closed to their permanent stop, or closed to less than two and one-half inches if the snare is not equipped with a permanent stop, if the person responsible for checking the traps or snares is not actively trapping and checking them within the time frames as provided in § 41:08:02:03. All traps and snares shall be removed from public lands and improved road rights-of-way prior to May 1 of each year.

Source: 30 SDR 21, effective August 25, 2003.

General Authority: SDCL [41-2-18\(14\)](#), [41-8-20](#).

41:08:02:14. Traps and associated equipment prohibited on public lands open to trapping -- Dates. Except as provided in §§ 41:08:02:01 and 41:08:02:02, no person may place any trap (set or unset), stake, cable, chain, wire, or other device used for the purpose of attaching a trap, or otherwise attempt to claim or mark a trap site on any public road right-of-way or public land or water open to trapping within 30 feet of water from October 1 to the opening of the mink season, inclusive.

Source: 37 SDR 18, effective August 16, 2010; 39 SDR 10, effective August 1, 2012.

General Authority: SDCL [41-2-18\(14\)](#).

41-2-18. Rules for implementation of game, fish and conservation laws. The Game, Fish and Parks Commission may adopt such rules as may be necessary to implement the provisions of chapters 41-1 to 41-15, inclusive. The rules may be adopted to regulate:

(14) The devices, weapons, ammunition, traps, tackle, bait, lures, and equipment which may be used to hunt, kill, capture, or locate any wild animal or fish if use of the above items would adversely affect the health, safety, or welfare of people or wildlife resources;

Hunter Harassment Law.

41-1-8. Interference with lawful hunting, trapping, or fishing prohibited--Violation as misdemeanor

No person may intentionally interfere with any person or group of persons lawfully engaged in the process of taking or attempting to take any game or fish. No person may engage in any activity specifically intended to harass or otherwise prevent the lawful taking of any game or fish. No person may engage in any activity to scare or disturb any game with specific intent to prevent their lawful taking. This section may not be construed to prohibit a landowner from revoking a prior grant of permission to hunt on his land. A violation of any provision of this section is a Class 2 misdemeanor.

Effect of Trapping Restrictions on SD Pheasant Numbers.

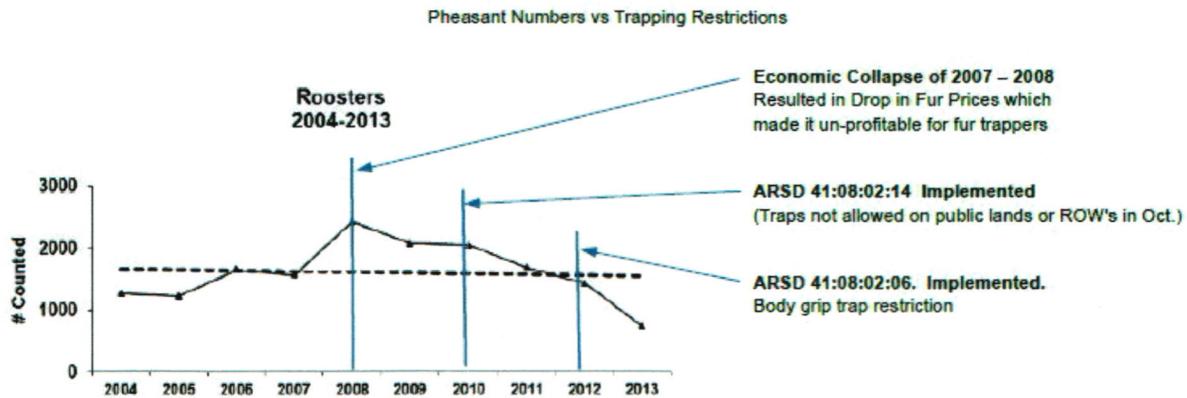


Figure 1. Rooster pheasant numbers declined after new trapping restriction were implemented.

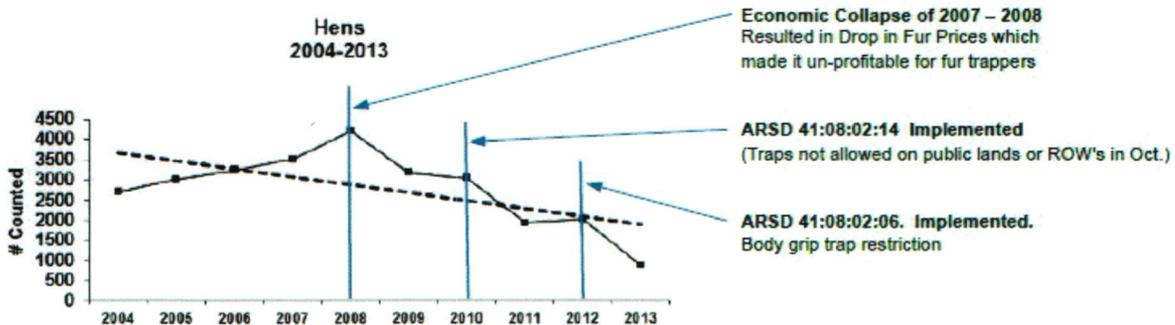


Figure 2. Hen pheasant numbers declined more than roosters after new trapping restriction were implemented.

Pheasant Numbers vs Trapping Restrictions

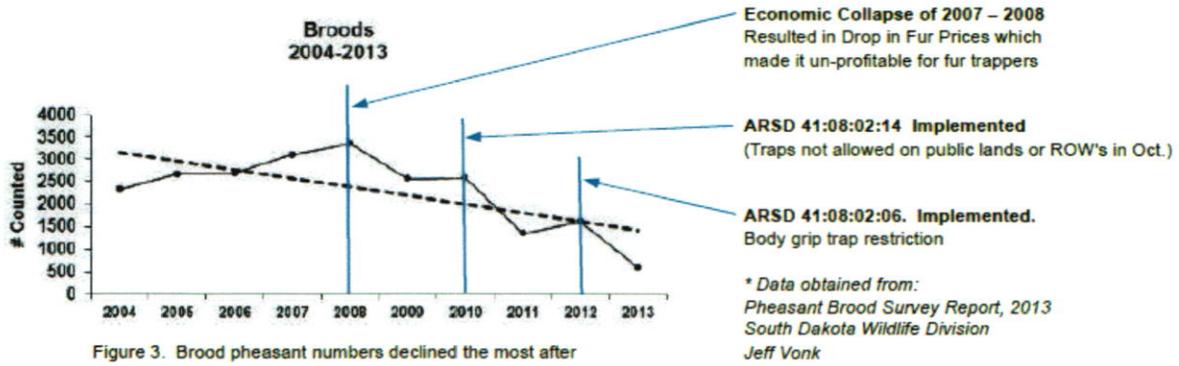


Figure 3. Brood pheasant numbers declined the most after new trapping restriction were implemented.

The three figures show correlation between trapping restrictions put in place by the GFP and the numbers of pheasants. In all three charts the numbers of pheasants declined immediately after new trapping restrictions went into effect. The negative effect of these trapping restrictions is most noticeable in the hen and brood number's. Raccoon prices were \$2 to \$5 during the economic crisis compared to a normal of \$20 to \$26 which resulted in low trapper participation.

This downward decline in our pheasant numbers is to be expected from the type of restrictions that were established by the GFP which negatively effect the harvest of nest predators such as raccoon, skunk, opossum, and mink.

The two trapping restrictions listed above must be repealed immediately so that our fur trappers can once again get the upper hand on our predators and help to restore our pheasant numbers.

The month of Oct. is a prime time to harvest raccoon. The pelts are undamaged and bring good prices at auction and the weather is milder than later in the year therefore more people would engage in the raccoon trapping and more raccoons could be harvested.

Please contact the SD GFP and tell the Wildlife Division to repeal the trapping restrictions immediately.

Prepared by. Brian Reynolds, 3/28/14