

**NOTICE OF PUBLIC HEARING
DEPARTMENT OF GAME, FISH AND PARKS**

A Public Hearing will be held at the Wrangler Inn, 820 W. Grand Crossing, Mobridge, South Dakota, on October 6, 2016, at 2:00 o'clock P.M. (CDT), to consider adoption, amendment and repeal of Rules pertaining to:

1. ARSD 41:06:46 – Depredation Permits.

Effect: The proposed amendments would combine the elk depredation hunt registration and selection process with the deer, antelope and turkey registration and selection process; require online registration for all depredation hunts; require that landowners receiving big game depredation assistance must allow hunting access to hunters that possess a big game depredation permit without charge; enable the GFP Commission by resolution to determine the number of elk depredation permits and authorize the Secretary to issue permits where appropriate; allow elk depredation hunts to be utilized throughout the year if deemed necessary; establish a process whereby hunters who register for the elk pool from December 1-31 will be randomly selected to determine the order in which they are contacted if a depredation hunt is needed and after December 31, additional hunters will be registered in the pool in the order that they enroll; limit those who may register for an elk depredation hunt to only residents who were not issued an elk license from the current regular elk drawing; establish a \$20 fee for an elk depredation permit with no charge for landowner permits; limit the maximum number of landowner/operator elk depredation permits that may be issued to one per household or ranch; authorize elk depredation hunts to be utilized in an established elk hunting unit as well as areas outside an established elk hunting unit, establish that elk depredation hunts will not occur within an established elk hunting unit during any open elk hunting season; provide that landowner preference or preference points do not apply to the issuance of elk depredation permits; provide that participation in an elk depredation hunt does not affect future eligibility or

preference points in future lottery drawings for elk seasons; provide that the nine year waiting period does not apply to a person who registers for an elk depredation permit; and provide that the pool of registered elk depredation hunters expires on December 31 of the following year.

Reason: The Department desires to modify the process by which elk depredation hunts are administered and for efficiency consolidate this process with other big game depredation hunt registration and selection processes. Taking this approach will require the current rule pertaining to "Elk Depredation Permits," ARSD Chapter 41:06:52, to be repealed.

2. ARSD 41:06:52 – Elk Depredation Permits. (Repeal)

Effect: The proposal would repeal this rule chapter in its entirety and combine/consolidate it with the general rule chapter pertaining to issuance of depredation permits, i.e., ARSD 41:06:46 (See Paragraph No. 1 above).

Reason: See "Reason" provided for Paragraph No. 1 above.

3. ARSD 41:07:01 – General Provisions (Baitfish use and High-grading of fish on South Dakota-Minnesota boundary waters).

Effect: The proposed amendments would (a) allow for baitfish use within the Black Hills Management Area; and (b) remove high-grading regulations specific to South Dakota/Minnesota border waters and replace them with the South Dakota inland regulations.

Reason: (a) The proposed amendment will improve law enforcement and fisheries management by allowing the use of live baitfish in all waters within the Black Hills Fish Management Area (BHFMA) except those closed due to invasive species issues. Currently, it is only lawful to use baitfish or minnows for the purpose of taking fish in Stockade, Sheridan and Pactola Reservoirs. (b) Minnesota is changing its regulation to allow Minnesota licensed anglers to high-grade, or cull, all species on SD/MN border waters in order to be consistent with its existing inland waters rules. Adoption of the department's proposal would be consistent with

the Minnesota changes and make the high-grading regulation for South Dakota inland waters (no high-grading for walleye only) apply to all border waters and inland waters.

4. ARSD 41:07:01 – General Provisions (Landowner Fisheries Management Authorization).

Effect: The proposal would create a new rule to provide authorization for landowners to perform fisheries management activities on created, man-made impoundments on land they own or lease.

Reason: Landowners have expressed a desire to be able to manage the fisheries on created, man-made impoundments on land they own or lease. Currently, these activities are permitted on a case by case basis, with each management activity on a water requiring submission of a separate application each time a landowner wishes to conduct a specific management action. Creating an administrative rule that would serve as a continual authorization to conduct the designated management actions would facilitate landowner management of created, man-made impoundments on land they control. In addition, private companies have expressed an interest in offering fisheries management services to landowners for created, man-made waters but there is not currently a mechanism for them to do so. The proposed rule would establish that mechanism in association with the landowner's authorization to conduct fisheries management activities.

5. ARSD 41:07:03 – Fish Limits.

Effect: The proposed amendments would (a) remove the 15 inch minimum size restrictions for black bass (largemouth and smallmouth bass) on Carthage, Dimock, Vermillion, Hanson and Staum Lakes; (b) remove the 14 to 18 inch protected slot limit for black bass on Enemy Swim and Pickerel Lakes; and (c) remove the 15 inch minimum size restriction for walleye and the 14 to 18 inch protected slot limit for black bass from Campbell Slough.

Reason: (a) Repeated attempts over many years to increase bass abundance in Carthage, Dimock and Hanson Lakes by stocking and length restrictions have failed. Because angler use of these waters has been low, the department will stock these waters with walleyes and yellow perch in an attempt to increase angler use. Lake Vermillion has always produced a small number of trophy-length largemouth bass without any management strategies other than the 15-inch minimum length restriction; however, since very few people target largemouth bass on this body of water, the length restriction is unnecessary for management purposes. Staum Lake is significantly silted in and becomes nearly impossible to fish by early summer due to excessive submerged aquatic vegetation. In addition, winter fish kills have become more frequent in recent years, and removal of the length limit will allow bass to be harvested before being lost to fish kills. (b) Growth rates for the black bass population on Enemy Swim and Pickerel Lakes have decreased for the past five years and current growth rates are much lower than regional averages. The bass in these lakes are highly abundant but the quality of the fish is lower than in many other South Dakota lakes. Based upon analysis of many years of creel information on these lakes, it is obvious anglers are not willing to harvest bass below the protected slot which essentially makes this regulation ineffective. The protected slot limit has been in place on these lakes for over ten years and the fisheries have not benefitted. (c) Campbell Slough does not have a public boat ramp so lake access is limited. In addition, the lake has a maximum depth of only nine feet and is considered a warm water marginal fishery; therefore, restrictive regulations are unnecessary.

6. ARSD 41:07:04 – Snagging of Salmon.

Effect: The proposal would eliminate the existing language which repeals this chapter in administrative rule and reopen a snagging season for salmon on Lake Oahe during the months of October and November.

Reason: Chinook salmon in Lake Oahe attempt to spawn and subsequently die. As this is a put-grow-take fishery, return to anglers is one of the most important metrics in determining the success of the program. Allowing the snagging of salmon in the months of October and November, when there are very few other species in shallow water in the back end of bays, would add recreational opportunity and allow people to better utilize this resource without negatively impacting other fisheries resources. Because this chapter of administrative rule was repealed in December 1988, it is necessary to reopen the chapter to re-establish a snagging season for salmon.

7. ARSD 41:07:05 – Paddlefish Snagging.

Effect: The proposed amendment would clarify the hours during which snagging of paddlefish can occur on portions of the Big Sioux River included in the fall paddlefish snagging season.

Reason: There presently is confusion as to whether the snagging hours for paddlefish on the Missouri River below Gavins Point Dam also apply to the open area in the Big Sioux River. The proposal will clarify the snagging hours.

8. ARSD 41:07:06 – Spearing.

Effect: The proposed amendments would lengthen the spearing/archery season for game fish (except paddlefish and sturgeon) in inland waters open to game fish spearing from current dates of June 15 through March 15 to May 1 through March 31, inclusive; change hours from sunrise to sunset to one-half hour before sunrise to sunset; add crossbows as a legal method of take for game fish on inland and border waters; open all inland waters (including rivers and streams during open seasons), except those managed for muskies or closed elsewhere in administrative rule, to take of catfish and northern pike during established season dates; close Middle Lynn Lake to the spearing of catfish and northern pike due to it being a newly-stocked muskie water; and open Waubay and Bitter Lakes in Day County, Swan and Dry

#2 Lakes in Clark County, Albert, Henry, Thompson, and Whitewood Lakes in Kingsbury County, to spearing of all game fish except paddlefish and sturgeon during established season dates.

Reason: Provide game fish spearing opportunity consistent with game fish management objectives.

9. ARSD 41:09:04 – Bait (Waters closed to taking of bait).

Effect: The proposed amendment would allow non-commercial take of bait in the Black Hills Fish Management Area except from Pactola, Deerfield, and Sheridan Lakes.

Reason: Adoption of the proposal would improve fisheries management and law enforcement as it would standardize the Black Hills Fish Management Area with the rest of the state with regard to the non-commercial taking of bait.

10. ARSD 41:09:07 – Private Fish Hatcheries; and ARSD 41:09:08 – Importation of Fish.

Effect: The proposed amendment would modify § 41:09:07:06.04 - “Fish health inspection required.” and § 41:09:08:03.04 - “Importation requirements for fish or fish reproductive products.” to allow fish health inspections to be conducted according to the “World Animal Health Organization (OIE) Aquatic Code 19th Edition, 2016 ISBN: 978-92-95018-12-7” or according to The American Fisheries Society Fish Health Section’s “Suggested Procedures for the Detection and Identification of Certain Finfish and Shellfish Pathogens, 2014 edition.”

Reason: Adding (OIE) inspection protocols will allow state hatcheries, fisheries managers, the bait and private aquaculture industries and importers of fish flexibility in available sampling protocols and allow them to use the method of inspection that best fits their situation while still protecting the fisheries resources of South Dakota.

11. ARSD Article 41:09 (New Chapter) – Special Permits and Licenses (Fishing Tournaments).

Effect: The proposed new rules would establish an application fee for fishing tournaments based upon a fee schedule with the applicable fee to increase as the number of tournament boats/participants increases and provide that participation in a non-permitted fishing tournament is a violation of rule (by law, a rule violation is punishable as a Class 2 misdemeanor).

Reason: There currently is no application fee for fishing tournaments. The number of fishing tournaments has steadily increased since 2008. In 2016, there will be nearly 200 events. All of these events require staff time to review, research, approve and record the applications. Large tournaments with more than 100 participants and those that donate the fish to organizations require much more time for law enforcement officers to monitor and for Parks crews to clean up after. This recommended change is brought forward in an attempt to provide compensation to the Department for the added staff time associated with fishing tournaments. To make this fee rule enforceable it is necessary to make it a violation for an angler to fish in a tournament that is not permitted; otherwise, it would be difficult to identify and hold the tournament organizers accountable.

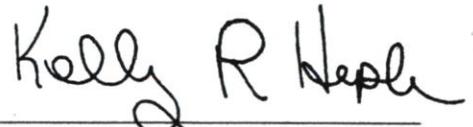
The above rule proposals may be modified or amended following receipt of public comment at the hearing to include or exclude matters that are described in this Notice of Hearing. The hearing may be continued from time to time until its business has been completed and may be rescheduled.

Interested persons will be given reasonable opportunity to submit data, opinions, arguments, and their views, either orally or in writing (or both) at the hearing. Persons unable to attend the hearing may mail data, opinions, arguments, and their views to the office of the Secretary of the Department of Game, Fish, and Parks, Foss Building, 523 East Capitol, Pierre, South Dakota 57501, or transmit by email to either wildinfo@state.sd.us or gfpadminrules@state.sd.us. All persons who desire to submit written data, opinions,

arguments, and their views by mail or email are encouraged to mail or transmit the same in sufficient time so that it is received by and in the office of the Secretary of the Department of Game, Fish, and Parks on or before 12:00 o'clock P.M. on the date of the hearing. Interested persons will be given reasonable opportunity to submit data, opinions, arguments and their views, either orally or in writing (or both) to the Commission for their consideration. All written and email comments must include the name, home town/city, and state of the person submitting the comments.

The above rule proposals are available for review on the internet by going to <https://rules.sd.gov/> and copies of the proposed rules may be requested from the office of the Secretary of the Department of Game, Fish, and Parks, Foss Building, 523 East Capitol, Pierre, South Dakota 57501. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Any individuals with disabilities who will require a reasonable accommodation in order to participate in the hearing should submit a request to the undersigned at 605.773.3718 or 605.223.7684 (Telecommunication Device for the Deaf).

dated this 12th day of September, 2016.



Kelly R. Hepler, Secretary



Notice of Public Hearing is published at the approximate cost of \$_____.