

**GAME, FISH AND PARKS COMMISSION ACTION
PROPOSAL**

USE OF PARKS AND PUBLIC LANDS

Chapter 41:03:01

Commission Meeting Dates: Proposal	Feb 28-Mar 1, 2019	Pierre
Public Hearing	April 4, 2019	Pierre
Finalization	April 4-5, 2019	Pierre

DEPARTMENT RECOMMENDATION

41:03:01:01.02. Time restrictions for use of state park system. Only persons utilizing a state park, state recreation area, state nature area, or state lakeside use area for lawful fishing, hunting, trapping, snowmobiling, boating, or camping or other persons authorized by a department representative may enter, use, or occupy any state park, state recreation area, state nature area, or state lakeside use area from 11:00 p.m. to 6:00 a.m. ~~from May 1 to September 30, inclusive, and 9:00 p.m. to 6:00 a.m. from October 1 to April 30, inclusive.~~

41:03:01:07. Commercial use prohibited. A person may not engage in or attempt to engage in agricultural or commercial activities, including selling or soliciting, on lands within the state park system, owned, leased, managed, or controlled by the department or within the right-of-way of the George S. Mickelson Trail without written permission from the secretary or a designated agent.

Commercial photography is any photography that is used to promote or sell a product or service. Examples are pictures for advertising, merchandising, product placement or corporate brochures and leaflets. The commercial photographer must secure a permit and pay the applicable fees.

Commercial filming is defined as digital or film recording of a visual image or sound recording for a market audience, such as for a documentary, television or feature film, advertisement, or similar projects. The commercial film maker must secure a permit and pay the applicable fees.

The fee for the use of department lands for commercial activity is as follows:

(1) Commercial Use (other than filming or photography)

- a. **Permit fee of \$100.00 or three (3) % of gross receipts, whichever is greater.**

(2) Commercial filming / video

- a. **Permit fee for commercial filming / video(s)**

1-10 people - \$150.00 per day

11-30 people - \$250.00 per day

31-49 people - \$500.00 per day

Over 50 people - \$750.00 per day

(3) Commercial photography

- a. **Permit fee for still photography**

1-10 people - \$50.00 per day

11-30 people - \$150.00 per day

Over 30 people - \$250.00 per day

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____

(4) Cost recovery fee charges for time and services of Game, Fish and Parks employees aiding in the field, is \$50.00 per hour per state employee.

General Authority: SDCL ~~41-2-18(4)~~, 41-17-1.1(1).

Law Implemented: SDCL ~~41-2-18(4)~~, 41-17-1.1(1).

41:03:01:15. Camping in state park, state recreation area, and state lakeside use area allowed only in designated campgrounds -- ~~Fifteen-day~~ Fourteen night limit. A person or group may camp only in an area designated as a campground site. No person or group may camp at, nor may a camper unit occupy any state park, state recreation area, or state lakeside use area for more than ~~fifteen consecutive days~~ fourteen consecutive nights without written permission of a department representative. For the purposes of this chapter, the term camper unit has the same meaning as defined in § 41:03:04:01.

~~**41:03:01:16.01. Uncased .22 caliber rimfire firearms prohibited -- Exceptions.** Uncased .22 caliber rimfire firearms are prohibited on all state park and recreation area lands and on the George S. Mickelson Trail the year around. However, uncased .22 caliber rimfire firearms are permitted within North Point Recreation Area and Oahe Downstream Recreation Area the year around on rifle ranges designated by the department. **Repeal**~~

41:03:01:19. Limitation on tree stands, elevated platforms, and portable blinds. Construction or use of permanent tree stands, permanent blinds, and climbing devices is prohibited on lands owned, leased, or controlled by the department. Portable tree stands, portable blinds, and climbing devices that do not utilize nails, wire, or bolts for attachment are allowed from August ~~25-1~~ to **February 15, March 31**, inclusive. Portable blinds may also be used during the spring turkey seasons established in chapters 41:06:13 and 41:06:15, by licensed spring turkey hunters. One screw-in "T" may be used to stabilize a tree stand. Removable screw-in steps may be used to access a tree stand. The name and address or the year and current applicable big game license number of the owner or user must be on the exterior of an unoccupied portable blind or tree stand and legible from the ground on a tree stand. Other elevated platform devices that are not attached to a tree must meet the requirements of this rule for permitted dates and for labeling if left overnight or unattended.

SUPPORTIVE INFORMATION

41:03:01:01.02. Time restrictions for use of state park system

Most park systems, including South Dakota's state park system, have a "curfew" to protect the public resources and legitimate campers and park users from disturbance. The proposed change would eliminate the 9pm "off season" (October through April) curfew in lieu of 11pm year around.

41:03:01:07. Commercial use prohibited

The existing rule prohibits agriculture (grazing/hay/cropping) activities and other for profit commercial activities on department lands without a permit but the rule lacks definition of permit pricing. A legal review determined that the department has statutory authority to issue agriculture permits and therefore, the administrative rule is redundant. Examples of typical for profit commercial activity are commercial photography and filming, food vendors, kayak lessons, horseback and bicycle tours, rock climbing schools and concerts. Each of these for profit activities requires an exclusive use of a public park resource. These activities occur nearly exclusively on state park lands or the George S. Mickelson Trail. The proposed changes to rule would:

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- Remove agricultural activity from the permitting requirement (redundant with statute).
- Limit the rule to the state park system and GSM Trail.
- Establish a fee structure for permitting commercial activities. The proposed pricing for filming and photography is consistent with National Park Service fees. Much of this activity occurs in Custer State Park and the same businesses are using Mt. Rushmore and Wind Cave as backdrops.

41:03:01:15. Camping time limit

The proposed rule change simply makes the time limit consistent with language in ARSD 41:03:04:05.01 regarding camping reservations and eliminates confusion - Fourteen consecutive nights versus Fifteen consecutive days.

41:03:01:16.01. Uncased .22 caliber rimfire firearms prohibited

Uncased firearms, and other weapons legal for hunting, are allowed in state park areas, with restrictions, during applicable hunting seasons - with the exception of .22s. The 37 year old restriction on 22s was presumably put in place as an effort to curb vandalism that was occurring at that time. Today, we are confident that with education and on-site staffing, we are controlling vandalism and can eliminate this restriction, thus affording hunters the opportunity to pursue small game with 22s in park areas during legal seasons. Target shooting is allowed year around at designated target ranges within state parks.

41:03:01:19. Limitation on tree stands, elevated platforms, and portable blinds

Portable tree stands and portable blinds are allowed on department land with restrictions that afford equal opportunity and protect the public natural resources. The dates that stands and blinds are allowed are restricted so that all hunters have equal access to prime sites and to avoid visual blights. The proposed change allows for earlier installation to accommodate the September 1 archery season opening date and moves the date that stands and blinds must be removed in recognition that oftentimes weather makes it impractical to remove tree stands by February 15th.

APPROVE _____	MODIFY _____	REJECT _____	NO ACTION _____
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