

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

A Public Hearing will be held at the Cadillac Jack's Springhill Suites, 360 Main Street, Deadwood, SD 57732 at 2:00PM (Mountain) on October 4, 2018, to consider adoption, amendment and repeal of Rules pertaining to:

1. ARSD 41:06:01:08.01 New Rule.

Effect: Establish a new rule that restricts applicants for East River, West River, Black Hills or Muzzleloader deer hunting seasons to submitting no more than one license application for the combined drawing for these seasons.

Reason: To increase the number of hunters who draw their preferred deer license and get more hunters out in the field on an annual basis by having fewer unsuccessful applicants.

2. ARSD 41:06:01:09. Application for unsold big game licenses.

Effect: The proposed rule changes establish a drawing structure in which applicants would need to choose a preferred license in either the special buck drawing or the first combined drawing of the East River, West River, Black Hills, or Muzzleloader deer hunting seasons. Current rule adjustments and newly created rules would establish that if a person was successful in drawing a license in the first combined draw for one of the 4 deer hunting seasons they could not apply for a leftover license in the second combined drawing; residents who have or have not successfully drawn a license for one of the 4 seasons could apply for leftover licenses in the third drawing and may only possess one license for each season; after the third drawing, leftover resident and nonresident licenses are pooled; in the fourth drawing a resident hunter may submit up to five applications and nonresident hunters who do not possess a license for any of the 4 seasons may apply for one license; and after the fourth drawing leftover licenses are available on a first-come first-serve basis.

Reason: These proposed rules would establish a drawing system in which more deer hunters would draw their preferred license on a more regular basis. The structure would allow more individuals the opportunity to deer hunt on an annual basis by distributing available licenses to more

individuals in the first and second draws before an individual could draw a second limited-draw license.

3. ARSD 41:06:01:10 Prior application preference.

Effect: Allow applicants a choice to use preference points for leftover licenses in the first three combined deer drawings. Applicants that choose to use preference points in leftover license drawings will not be allowed to accrue an additional point for an unsuccessful application in the first drawing for the season where preference points were used to draw a leftover license.

Reason: Administrative rule changes and creation of new rules are part of the proposed rules to establish a deer drawing structure which would allow more hunters to obtain their preferred deer license on a more regular basis and provide the applicant the choice of using accrued preference points in more drawings if they so desire to increase their chances at drawing a license in subsequent draws. Currently, preference points are only applied to first choice first draw applications.

4. ARSD 41:06:26:01 Black Hills elk hunting season established – number and type of licenses.

Effect: The proposed change would allow for an elk license to be made for a raffle conducted by a nonprofit organization. The license would only be available for a resident. All money raised would be used for wildlife management.

Reason: The additional tag made available would not have a biological impact and the amount of potential revenues raised would be beneficial for wildlife management.

5. ARSD 41:07:01:01 Definition of terms (Fishing)

Effect: The proposed change would eliminate the definition of “liberalized fishing” and create a definition for “possession limit”, with the limit being defined as that stated in administrative rule when away from an angler’s domicile and unlimited at the domicile. The number of fish in public storage or being transported at one time must adhere to possession limits but that restriction would not apply to fish stored at a domicile.

Reason: Possession limits do not have a biological effect on fish populations and this change would provide additional flexibility for anglers in how they store fish.

6. ARSD 41:07:01:10 Liberalized fishing waters restrictions.

Effect: The proposed change would repeal the liberalized fishing waters restriction.

Reason: Liberalized fishing regulations are no longer used, as they provided little fish harvest opportunity for anglers.

7. ARSD 41:07:01:12 Fishing license fees.

Effect: The proposed change would eliminate the license and fee requirement for game fish spearing and archery fishing.

Reason: The permit was initially implemented as a means of gathering information on the number of people spearing or shooting game fish in South Dakota, to improve management. That objective has been accomplished and the permit is no longer needed.

8. ARSD 41:07:02:02 South Dakota-Minnesota boundary waters.

Effect: The proposed rule would simplify the fishing restrictions to coincide with inland waters by removing the closed fishing season for game fish during the spring. Reason: There is no biological reason to close the fishing season on the boundary waters during the spring and removing the closure would increase fishing opportunity.

9. ARSD 41:07:02:03.01 Liberalized fishing.

Effect: The proposed change would repeal the administrative rule.

Reason: Liberalized fishing regulations are no longer used, as they provided little fish harvest opportunity for anglers.

10. ARSD 41:07:02:05 Special management waters.

Effect: The proposed rule would eliminate restrictions on waters in Codington, Hamlin, Day, Marshall, Roberts and Lake Counties.

Reason: There is no biological reason to close fishing on these waters and opening the waters to fishing year-round will increase opportunity.

11. ARSD 41:07:03:01 Inland waters.

Effect: The proposed change would eliminate the daily harvest restriction of 25 white bass and rock bass and make the daily limit and possession limits unlimited, for inland waters.

Reason: White bass and rock bass are present in high abundance in a number of South Dakota waters and are under-utilized by anglers. Removing harvest limits would increase opportunity without negatively affecting populations.

12. ARSD 41:07:03:03 Daily, possession, and length limit restrictions on special management waters – Additional restrictions described.

Effect: The proposed rule would eliminate the 15 inch minimum requirement for large and small mouth bass except on Lake Yankton and Burke Lake where the 15 inch minimum length limit would remain in effect. The proposal would also eliminate the regulation prohibiting harvest of largemouth and smallmouth bass between 14 and 18 inches, with at most one fish greater than 18 inches in length, for all waters except New Wall Dam in Pennington County. In addition, the proposed rule would limit anglers to one lake trout or brook trout-lake trout (splake) cross 24 inches or over in the Black Hills fish management area. It would also eliminate the 1 trout over 14 inch regulation in the lakes within the Black Hills fish management area. The proposed rule would also eliminate the 15 inch minimum length limit on walleye on Lake Mitchel, Richmond Lake, Pickerel Lake, Clear Lake, Roy Lake, Lake Enemy Swim and Elm Lake. Finally, the proposed rule would require that an angler may only take one walleye, sauger, or walleye-sauger hybrids from Horseshoe Lake that is 28 inches or longer.

Reason: Reservoirs within the Black Hills Fish Management Area are put-and-take fisheries for trout. Many of the fish stocked are above 14 inches upon stocking. Anglers often catch only trout over 14 inches in an outing. In an effort to increase opportunity and better utilize stocked products, the one over 14 inch restriction could be removed on reservoirs. Lake Trout fall under daily trout limits in the Black Hills Fish Management Area outside of Pactola Reservoir. This means that anglers may currently harvest 5 Lake Trout daily with only one over 14 inches in length from Deerfield Reservoir. Applying the regulations for lake trout on Pactola reservoir to all waters in the Black Hills Fish Management Area would protect lake trout in Deerfield reservoir and simplify

enforcement. Review of Walleye lakes with a 4 fish daily limit and a 15 inch minimum size restriction indicates they are not biologically effective over the long-term in producing larger fish. Exceptions to these removals would be those waters currently with an evaluation in progress (Lake Sharpe, Lake Francis Case, Angostura, Shadehill)

Black bass (Largemouth and Smallmouth Bass) are not targeted by the majority of anglers and harvest of bass generally is very low compared with other game fish species. Length restrictions have not been shown to have a biological impact on fish populations. Regulation removals would occur on 35 waters. Evaluations are ongoing on a few waters with bass restrictions and restrictions would remain in place for those waters.

The minimum length of 28 inches and a daily limit of one walleye per day regulation has been very successful and popular with anglers in the two other lakes in the state that have it in place. Adding this Walleye restriction on Horseshoe Lake will create more diversity in fishing opportunities for anglers.

The 28-inch minimum length limit for walleye has been popular with anglers who prefer to catch large walleye and who accept the limited opportunity to harvest fish with this regulation in effect. Adding Horseshoe Lake to the waters with the 28-inch minimum length for walleye will diversify angling opportunities.

13. ARSD 41:07:05:01 Snagging season.

Effect: This change would remove the reference to snagging being allowed as a method of take on waters where liberalized fishing rules are in place.

Reason: Repeal of liberalized fishing rules removes the need for snagging to be listed as a method of take for liberalized waters.

14. ARSD 41:07:05:02 Snagging season in special management areas.

Effect: The proposed change would allow for the use of a legal bow and arrow to take a paddlefish on Lake Francis Case during the established May 1st through 31st annual paddlefish snagging season.

Reason: There are no length restrictions for paddlefish harvested on Lake Francis Case and

fish taken with a legal bow and arrow are not releasable. Adding legal bow and arrow to the methods of take for this season will increase opportunity without affecting the management objectives for the fishery.

15. ARSD 41:07:06:01.01 Spearing of rough fish in South Dakota-Nebraska boundary waters.

Effect: The proposed amendment would allow for the use of a legal crossbow and spear guns to take fish and expand the season to year-round.

Reason: The proposed changes would increase opportunity and allow South Dakota regulations to match Nebraska's on the boundary waters.

16. ARSD 41:07:06:03 Areas open to spearing of game fish – Additional permit required.

Effect: The proposed rule would eliminate the requirement to purchase a game fish spearing and archery fishing permit. The rule also expands the areas and times in which spearing can take place by opening the entirety of Lakes Sharpe and Francis Case to spearing and archery for game fish during established seasons, allowing spearing and archery for northern pike and catfish on all inland waters, except those managed for muskies, year round, changing the SD-NE boundary waters gamefish spearing and archery season from July 1 through November 30 to July 1 through December 31, and allowing take of gamefish below Gavins Point Dam on the Missouri River by spearing and archery during established season dates.

Reason: Proposed changes would increase opportunity to take game fish using legal spears, spear guns, bow and arrow, and crossbows during established seasons and expand the season for catfish and northern pike to all inland waters, year round.

17. ARSD 41:07:06:03.01 Archery allowed for taking of paddlefish from portion of Missouri River.

Effect: The proposed change would simply move the administrative rule under the paddle fish regulations.

Reason: Having all paddlefish regulations under one chapter makes the administrative rules easier to follow.

18. ARSD 41:07:06:07 Restricted areas. (Spearing)

Effect: The proposed change would expand the areas where spearing and bowfishing are prohibited to include the Lewis and Clark and Angostura marinas.

Reason: Underwater spearing is already prohibited within 100 yards of boat docks. Adding prohibitions on use of legal spears, bow and arrow, and crossbows for the marina at the Lewis and Clark Recreation Area and Angostura Recreation Area will increase safety at these busy marinas.

19. ARSD 41:10:04:01 List of aquatic invasive species.

Effect: The proposed rule would add the starry stonewort (*nitellopis obtusa*) to the list of plants that are considered aquatic invasive species.

Reason: It has been determined this is a threat to the waters of South Dakota as an aquatic invasive species.

20. ARSD 41:10:04:02 Aquatic invasive species restrictions.

Effect: The proposed rule would allow the commercial harvest and landowner removal of certain aquatic invasive species.

Reason: There is currently no mechanism in place for commercial plant harvesters or lakeshore property owners to possess aquatic invasive plant species while they are in the process of removing and disposing of them. This change in rule would make that allowance as long as a commercial harvester is following a department approved operations plan or lakeshore homeowners dispose of plants according to the conditions of a department issued permit.

21. 41:10:04:03 Watercraft restrictions.

Effect: The proposed change would authorize the department secretary to allow for instances in which removal of all water from a boat would not be required prior to leaving a boat ramp parking area.

Reason: The department secretary currently can allow anglers participating in events where transport of fish in live wells is desirable to increase survival of fish after a weigh-in event to transport fish in water from a lake, river, or stream. Allowing the secretary to authorize boat plugs to remain in place outside of boat ramp parking areas would facilitate the occurrence of off-site, live release

tournaments in highly regulated situations where sufficient oversight and monitoring occurs to ensure that water will not be transferred between waterbodies.

22. 41:10:04:06 Containment waters.

Effect: The proposed rule would add Lake Yankton in Yankton County to the list of lakes designated as containment waters.

Reason: Zebra mussels have become established in Lake Yankton and decontamination requirements for watercraft using waters infested with mussels need to apply to the lake.

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 by going to the GFP website at <http://gfp.sd.gov/forms/positions>. 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 72 hours prior to 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 17th day of Sept, 2018.



Kelly R Hepler

Kelly R. Hepler, Secretary

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