

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

A Public Hearing will be held at Camp Lakodia Hall, 45156 – 235th Street, Madison, South Dakota, on November 1, 2012, at 2:00 o'clock P.M. (CDT), to consider adoption, amendment and repeal of Rules pertaining to:

1. ARSD 41:03:03 – Park Licenses.

Effect: The proposed amendments would increase the annual park entrance license fee from \$28 to \$30 (\$15 for each additional vehicle registered to the same owner), transferable annual park entrance license fee from \$60 to \$65, and the daily fee for admission to the annual Fort Sisseton Festival from \$4 to \$5.

Reason: The proposed fee increases are necessary to help offset the rising costs of operating and maintaining the state park system and the costs of holding the annual Fort Sisseton Festival.

2. ARSD 41:03:04 - Camping Permits and Rules.

Effect: The proposed amendments would add South Scalp Creek, White Swan and Walth Bay lakeside use areas to the list of areas that require a basic campground fee; increase the daily group lodge fee at Mina State Recreation Area from \$151.66 to \$160 and at Shadehill State Recreation Area from \$151.66 to \$185.00 for the first 8 persons age 12 and over and increase the fee for each additional person age 12 and older from \$15 to \$17; and increase the daily group lodge fee at Lake Thompson State Recreation Area, Palisades State Park and Newton Hills State Park from \$213 to \$240 for the first 12 persons age 12 and over and increase the fee for each additional person age 12 and older from \$16.19 to \$17.

Reason: South Scalp Creek, Walth Bay and White Swan lakeside use areas offer the same amenities and level of service to campers as the other areas where the basic campground fee is charged, and the revenue from the camping fee will help offset the

maintenance and operating costs of the areas. The proposed fee increases for the group lodges will help offset rising utility and other operating costs impacting the state park system and make the price more comparable to other similar lodging offered in the state.

3. ARSD 41:03:04 – Camping Permits and Rules.

Effect: The proposal would repeal ARSD §§ 41:03:04:09 (Camper units limited to two per site-each unit must have permit) and 41:03:04:10.01 (Additional camper unit occupancy permitted-Fee); and modify ARSD § 41:03:04:10 (Camper unit occupancy restricted) to establish one rule pertaining to campsite occupancy.

Reason: These changes will reduce the number of administrative rules regarding campsite occupancy from three to one and simplify the rule language making it easier for both the public and park staff to understand.

4. ARSD 41:06:02 – License Forms and Fees.

Effect: The proposed amendments would increase the following nonresident license fees: Small Game (10 day) - \$105 to \$115; Shooting Preserve (annual) - \$80 to \$115; Shooting Preserve (1 day) - \$30 to \$40; Shooting Preserve (5 day) - \$60 to \$70; Waterfowl (10 day/annual) - \$105 to \$115; and Waterfowl (3 day) - \$70 to \$80. (NOTE: These fees do not include the \$5 surcharge imposed by state statute.)

Reason: The proposed fee increases are necessary to provide sufficient revenue to fund the operations and programs of the Wildlife Division.

5. ARSD 41:07:01 – General Provisions.

Effect: The proposal would repeal the rule authorizing use of artificial lights while fishing with legal methods.

Reason: The rule is unnecessary. It addresses an activity which is not prohibited.

6. ARSD 41:07:02 – Fishing Season.

Effect: The proposed amendments would amend the rule section pertaining to

special management waters by removing the following streams and creeks from the spring fishing closure list: all creeks in Codington County except those associated with Punished Woman and Round Lakes, the outlet stream from Lake Poinsett, all creeks in Grant County, and creeks in Roberts County below White Rock Dam on the Bois De Sioux River and below Reservation Dam gates on Lake Traverse.

Reason: Increase fishing opportunities during the spring in several northeastern counties while still addressing areas with ongoing law enforcement concerns.

7. ARSD § 41:07:03 – Fish Limits.

Effect: The proposal would (a) repeal the rule which provides that a one-day fishing licensee can possess no more than one day's limit of fish; and (b) modify ARSD § 41:07:03:03 (Daily, possession, and length limit restrictions on special management waters) as follows: (i) remove "River upstream to Shadehill Dam" from subsection (1), (ii) change the county designation for Richland Dam from Jerauld to Jones and for Curlew Lake from Pennington to Meade in subsection (2), (iii) remove subsection (4) which provides "In Patten Dam in Aurora County, the daily trout limit is 2", and (iv) add a new subsection providing that in Lake Oahe, the daily limit for walleye, sauger, walleye-sauger hybrids, or combinations thereof is 8 and of the walleye taken daily no more than four may be 15 inches or greater in length, with a possession limit of 24, meaning the stipulation that no more than one walleye, sauger, or walleye-sauger hybrid may be 20 inches or longer may be included in the daily limit would no longer be in effect on this water.

Reason: (a) There is no need to specify a possession limit for a one-day license as the duration of the license implies that a licensee may possess no more than a one-day limit. (b)(i) Changes to setline rules will now allow catfish to be taken without limit on the entire Grand River eliminating the need for restriction above Shadehill Dam. (ii) The correct county designation for Richland Dam is Jones County, and the correct county designation

for Curlew Lake is Meade County. (iii) Patten Dam is no longer managed as a trout fishery. (iv) This proposal is designed to increase angling opportunities by taking advantage of current walleye population characteristics on Lake Oahe and has no foreseeable negative biological consequences.

8. ARSD 41:07:05 – Snagging of Paddlefish.

Effect: The proposed amendment would remove transportation restrictions on paddlefish harvested during the May season on Lake Francis Case.

Reason: Because there are no length restrictions on paddlefish harvested during the May Lake Francis Case paddlefish season, transportation restrictions are unnecessary and cumbersome to paddlefish anglers trying to preserve harvested paddlefish during travel to domiciles.

9. ARSD 41:07:06 – Spearing.

Effect: The proposal would (a) repeal the rule section pertaining to the season and areas open to taking of catfish without limit; and (b) modify the rule section pertaining to areas open to spearing of game fish as follows: (i) allow northern pike spearing in inland waters statewide, (ii) change spearing end dates for inland waters to March 15, and (iii) add language allowing a year-round season for take of catfish on the Missouri River system.

Reason: (a) Much of the text of this rule repeats language in existing rule pertaining to areas open to spearing of game fish. In addition, existing rule already allows catfish to be taken without limit from the inland waters of the Missouri River system and its impoundments. Language related to season dates would be transferred to the rule section pertaining to areas open to spearing of game fish. (b)(i) Take of northern pike by under-water and darkhouse spearing and archery would be permitted on all waters of the state, except those waters actively managed for muskies, during the standard June 15 – March 15 game fish spearing season. Northern pike are a traditional target of darkhouse spearmen

and opportunities to pursue northern pike would be greatly increased by expanding the opportunity statewide. Additional opportunities for under-water spearers and archers will result by having season dates match standard game fish season dates. (ii) Because ice cover often occurs past the end of February, moving the end date for spearing to March 15 would allow additional opportunity for darkhouse spearers without negatively impacting fish populations. (iii) Because the rule pertaining to season and areas open to taking of catfish without limit (ARSD § 41:07:06:05) is being repealed, language specifying a year-round season for take of catfish by spearing and archery on inland Missouri River waters open to game fish spearing is being added to the rule pertaining to areas open to spearing of game fish (ARSD § 41:07:06:03).

10. ARSD 41:07:08 – Hoop Nets and Setlines.

Effect: The proposed amendments would (a) repeal the rule establishing the minimum length of catfish which may be taken by hoop net, trap or setline; (b) repeal the rule which prohibits use of baitfish and establishes specific types of bait which may be used on setlines; and (c) lengthen the season from May 1 through October 31 to year-round for all South Dakota inland waters open to hoop net or set line use, expand areas on the mainstem Missouri River system open to use of hoop nets and setlines to the entire length of the river and reservoirs from the Nebraska/South Dakota state line to the North Dakota/South Dakota state line, standardize the number of setlines that can be used in any inland waters where setlines are allowed in South Dakota at six, extend the areas of western tributaries open to use of setlines to the entire length of the tributary within South Dakota, add Angostura, Belle Fourche, and Shadehill reservoirs to the list of waters open to use of setlines, and prohibit use of whole baitfish as bait on setlines.

Reason: (a) This rule is unnecessary. Catfish are underutilized throughout the Missouri River system and its tributaries in South Dakota. Setlines allow anglers an

additional opportunity to harvest catfish and the use of a minimum length limit to regulate harvest is contradictory to the management objective. (b) Specific stipulations of legal setline bait on the mainstem waters of the Missouri River are no longer needed; text referring to the prohibition of whole baitfish as setline bait will be included in another rule. Repealing the rule will also standardize available bait options for the mainstem Missouri River with western tributaries and reservoirs. (c) These changes will increase angler opportunity without having a negative effect on fish populations and remove confusing language from the regulation.

11. ARSD 41:07:10 – Turtles.

Effect: The proposed amendments would clarify that legal methods of taking turtles include “legal spears” and turtle traps as defined in current rule and that the rule restrictions apply to any species of turtle, and delete the reference to ARSD 41:09:04:02.02 which has been repealed.

Reason: The proposed amendments clarify the current rules and do not change the intent of the rules.

12. ARSD 41:09:04 – Bait (Waters open to taking of bait).

Effect: The proposed amendments would: (a) change the heading of the rule section to “Waters closed to the taking of bait”; (b) close the following waters to the commercial and noncommercial taking of bait by those methods listed in ARSD § 41:09:04:04: creeks, streams or rivers, permanent or temporary, located in Aurora, Beadle, Bon Homme, Brown, Clay, Davison, Edmunds, Faulk, Hand, Hanson, Hutchinson, Jerauld, Lincoln, McCook, McPherson, Miner, Minnehaha, Moody. Sanborn, Spink, Turner, Union, Yankton counties and the Black Hills Trout Management area as defined in ARSD § 41:07:01:01, Interstate (Brookings County), Newell (Butte County), Alice (Deuel County), Mina (Edmunds County), and Pactola and Sheridan (Pennington County); (c) modify the

list of waters closed year-round to commercial taking of bait to add Little White River (Bennett County), Twin (east of Hwy. 81), Brush, Nature Park East, Nature Park West, Nelson GPA (Brookings County), Wanalain, Sixteen (Brule County), 3rd Avenue Pond (Codington County), Trail City (Corson County), Lynn, Opitz (Day County), Lantry, Little Moreau #3, Moreau River (Dewey County), Cottonwood (Fall River County), Mission (Boehm) (Hyde County), Okaton, Draper, all Ft. Pierre Nat'l Grassland ponds Bad River, White River (Jones County), Herman State Park Pond (Lake County), Mirror #1 & #2, Strawberry Hill (Lawrence County), Rollings GPA Pond (Lincoln County), all Ft. Pierre Nat'l Grassland ponds, Byre, White River (Lyman County), Cattail/Kettle (Marshall County), Island (McCook County), Eureka, Leola (McPherson County), White River, Little White River (Mellette County), Loss, Island, Scott, Twin (Minnehaha County), Sunday Gulch Pond (Pennington County), Redfield (Spink County), all Ft. Pierre Nat'l Grassland ponds, Bad River (Stanley County), and White River, Keya Paha River (Tripp County); and (e) modify the list of waters closed year-round to commercial taking of bait to remove Missouri River (Bon Homme County), Interstate, Lake (Brookings County), Newell (Butte County), Chester (Campbell County), Tetanka (Corson County), all trout streams (Custer County), Alice (Deuel County), Adams, Dewberry (Dewey County), Bowdle/Hosmer, Loyaltan, Mina (Edmunds County), all trout streams (Fall River County), Blue Cloud Abby (Grant County), Chappelle, Quirk (Hyde County), National Grasslands Dams (Jones County), Iroquois (Kingsbury County), all trout streams (Lawrence County), Eureka #1, Eureka #2, Wolff (McPherson County), Blackpipe, Diess, Rohloff (Mellette County), Pactola, Sheridan, all trout streams (Pennington County), and Dudley, Mirage, Bierman (Spink County).

Reason: These changes are to aid in preventing the spread of aquatic nuisance species from water where they occur to other waters of the state and to update the list of

waters closed to the year-round commercial taking of bait to add waters which are managed for game fish population and to remove those which are no longer managed for game fish.

13. Amend ARSD 41:09:04 – Bait (Seines, nets and traps limited).

Effect: The proposed amendments would clarify that the department may issue permission to use seines, nets and traps larger than those specified in current rule in association with the department's approval to stock public waters with white suckers for rearing and harvest.

Reason: Current equipment restrictions for equipment used to trap or catch bait species are in place to minimize by-catch of game fish species and waterfowl. White suckers are a desirable bait species to raise in South Dakota but they must be stocked as young fish and then harvested in the fall using nets, traps, and seines with larger net openings or mesh than would be used for standard bait trapping activities. This change in rule ties permission to use larger equipment to approval from the department to stock a water with white suckers, allowing bait dealers a legal means of harvesting their fish.

14. Amend ARSD 41:09:04 – Bait (Transportation by dealers - Inspection).

Effect: The proposed amendment would repeal ARSD § 41:09:04:11.

Reason: This rule specifies specific conditions for water quality parameters in transport tanks when hauling bait and language that requires transportation equipment to allow for inspection. The rule is not necessary and the inspection language will be added to ARSD § 41:09:04:12 (see Paragraph No. 15 below).

15. ARSD 41:09:04 – Bait (Transportation of other fish by bait dealer).

Effect: The proposed amendments would change the heading of the rule section (ARSD § 41:09:04:12) to "Transportation of bait and other fish by bait dealer" and add a provision which requires transportation equipment to allow for inspection of bait and other fish at all times.

Reason: This rule modification would clarify that when a bait dealer also holds a private hatchery license that the rule applies to all fish species and adds the language which formerly was contained in ARSD § 41:09:04:11 that the equipment must allow for inspection of all fish being transported at all times.

16. ARSD 41:09:04 – Bait (Records Required).

Effect: The proposed amendment would provide bait dealers the option to prepare and maintain required records in an electronic format instead of on paper forms provided by the Department.

Reason: This rule modification was requested by bait dealers and would allow bait dealers to use their existing spreadsheets or data bases or create new ones to meet reporting requirements, once file formats are approved by the department.

17. ARSD 41:10:04 – Aquatic Nuisance Species.

Effect: The proposed amendments would (a) add the following species to the list of aquatic nuisance species: western mosquitofish (*Gambusia affinis*), purple loose strife (*Lythrum salicaria*), flowering rush (*Butomus umbellatus*), and red rimmed melania (*Melanoides tuberculata*); and (b) modify the current rule pertaining to watercraft restrictions and aquatic nuisance species inspections (ARSD § 41:10:04:03) by separating it into two rules, one pertaining to watercraft restrictions and the other pertaining to watercraft inspections.

Reason: (a) These additional species have been determined to pose enough of a risk to the resources of South Dakota to be added to the aquatic nuisance species list. (b) The proposed changes to this section will allow law enforcement officers to address non-compliance with individuals that refuse to remove aquatic vegetation from boats and trailers and allow for more flexibility in decontamination efforts by department staff.

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 Wildinfo@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. three (3) days prior to the date of 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 and mailing address of the person submitting the comments.

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. Persons with disabilities may contact the undersigned for assistance.

Dated this 5th day of October, 2012.

(SEAL)

s/b Jeff Vonk

Jeffrey R. Vonk, Secretary

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