



## Recreational Drone Use on Game, Fish and Parks Property

### Overview

The Federal Aviation Administration (FAA) is the agency charged with the regulation of unmanned aircraft systems, more commonly known as drones. The FAA regulates both the recreational and civil/commercial use of drones in the airspace of the United States.

### FAA Rules

There are two sets of federal rules depending on the purpose of your flight. If your flight is purely for recreational purposes 14 CFR Part 101<sup>1</sup> applies. If your flight is for any form of commercial activity, i.e. photography for sale, 14 CFR Part 107 apply. Federal requirements can be found at:

- [https://www.faa.gov/uas/resources/uas\\_regulations\\_policy/](https://www.faa.gov/uas/resources/uas_regulations_policy/)

### South Dakota Statutes and Administrative Rules

The State of South Dakota does not have the authority to regulate the use of airspace. Where the Federal Congress has expressed an intent to displace state authority within a given subject matter by establishing exclusive federal authority, state action in the field will be deemed preempted and therefore invalid.

Even though South Dakota may not regulate how a drone flies, the State retains authority as to secondary conduct that may be attributed to the actions of the drone. The following Statutes and Administrative Rules must be abided by at all times when flying a drone on or over Game, Fish and Parks property:

- **You cannot use a drone to eavesdrop or engage in any other type of surveillance in a private place. SDCL 22-21-1.**
- **You cannot fly in a manner that causes serious public inconvenience, annoyance, or alarm to any other person, makes unreasonable noise; disturbs any lawful assembly or meeting of persons, or obstructs vehicular or pedestrian traffic. SDCL 22-18-35.**
- **You cannot fly in a manner which interferes with the management of the area or the authorized use of the area by others. ARSD 41:03:01:01.**

The following statute applies to drone use regardless of what property you are on:

- **You cannot use a drone to hunt, kill, take, concentrate, drive, rally, stir up, spot, or locate game birds, or animals. SDCL 41-8-39.**

### Commercial Activity

If you intend to fly your drone for commercial purposes you must obtain a commercial use permit from the Department. The application can be found at <https://gfp.sd.gov/forms/film/>.

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<sup>1</sup> On October 5, 2018, the President signed the FAA Reauthorization Act of 2018 (PDF). The Act establishes new conditions for recreational use of drones and immediately repeals the Special Rule for Model Aircraft (14 CFR Part 101). The FAA is evaluating the impacts of this change in the law and how implementation will proceed. In the interim, please continue to follow all current policies and guidance with respect to recreational use of drones.