

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

A Public Hearing will be held at the AmericInn Conference Center, 1981 East King Avenue, Chamberlain, SD on October 3, 2019 at 2:00 pm (Central) to consider adoption, amendment and repeal of rules pertaining to:

1. ARSD Chapter 41:08:02 (Trapping prohibitions)

Effect: There are two different proposals regarding trapping prohibitions. This amendment would require all traps and snares in South Dakota be checked within 24 hours from time the trap was set. The proposed change would also allow GFP personnel to grant extensions to the 24 hour check time on an individual basis. Create a rule that puts an obligation on the trapper to check the weather report for the next 48 hours and record such data. If weather conditions are anticipated that would preclude the trapper from checking the traps within 24 hours, the traps would not be allowed to be set. The proposal would create a new rule that would allow GFP personnel to release or euthanize an animal in a trap that has been there longer than 24 hours. The proposal would create a new rule that would allow any person, after receiving permission from GFP personnel, to release or euthanize an animal in a trap or snare longer than 24 hours. If an animal is euthanized by an authorized person of GFP, any profit generated from the animal shall be reverted back to GFP. Finally, the proposal would create a rule that required GFP to keep records on trap check time extensions and deliver said report to the GFP Commission on an annual basis.

Reason: The above changes come at the request of a petitioner. Under South Dakota law, any person can petition the Commission for rule creation and modification. As an effort of transparency, the GFP Commission adopted the petition to allow it to become a proposal to receive public feedback.

2. ARSD 41:08:02:03 (Trap checking required)

Effect: The proposed rule would modify the existing rule to require all traps and snares in South Dakota to be checked prior to midnight of the third full calendar day following a previous check or when the trap was initially set. The proposal would also require traps and snares fully submerged in water that remains set beneath ice shall be checked prior to midnight of the fifth full calendar day statewide, following a previous check or when the trap was initially set.

Reason: In effort to provide consistency with current trap check times, the Department is introducing a statewide check time that is more easily understood by the public and provides greater flexibility and opportunity for trappers.

3. ARSD 41:06:04:14 (Muzzleloading restrictions)

Effect: The proposal would allow for telescopic sights utilizing magnification.

Reason: The proposed rule was brought by an individual as a petition and aligns with the recent direction the Department has been taking in order to remove barriers and restrictions that are often unnecessary in administrative rule.

4. ARSD 41:06:02:03 (Hunting license fees)

Effect: The proposed change would establish a fee for nonresident license for the mountain lion hunting season.

Reason: The allowance of a small number of nonresidents to hunt mountain lions would provide additional hunting opportunities and still meet management objectives.

5. ARSD 41:06:61:02 (Black Hills Fire Protection District – Harvest limit – Season dates – Season Closure – Mountain Lions.

Effect: The proposed change would extend the season dates from December 26 through March 31 to December 26 through April 30. The proposed change would also increase the number of access permits in Custer State Park.

Reason: The extension of dates would provide for additional hunting opportunities and still meet management objectives.

6. ARSD 41:06:61:04 (Season extension – Commission resolution required – Mountain Lions)

Effect: The proposed change would allow the GFP Commission to extend the mountain lion hunting season beyond April 30 if it was determined necessary.

Reason: It is necessary to have flexibility with the Commission in order to continue to meet management objectives.

7. ARSD 41:06:61:06 (Application Requirements – Mountain Lion)

Effect: The proposed changes would create a limited number of licenses for nonresidents and expand the allowance for the use of dogs that originates on private land to cross over or culminate on any public lands where unleashed dogs are permitted.

Reason: The allowance of a small number of nonresidents to hunt mountain lions and expanding the public lands in which dogs can continue and culminate a hunt would provide additional hunting opportunities and still meet management objectives

8. ARSD 41:06:37:01 and 41:06:37:02 (Custer State Park coyote hunting season).

Effect: The proposed change would extend the season from December 26 through March 31 to December 26 through April 30. The proposed change would also remove the requirement to have a free access permit.

Reason: The change would allow for additional coyote hunting opportunities and allow for the coyote and mountain lion hunting seasons to run concurrently. The removal of required access permits is part of the Departments dedication to remove barriers to hunting.

9. ARSD 41:07:01:01 (definition of terms- Fishing).

Effect: The proposed rule would add a definition of “setline” and “wire fish traps.”



Reason: Current rules do not include a definition and adding the definition would allow the Department to carry out their duties and functions more efficiently.

10. ARSD Chapter 41:07:08 (Hoop nets and setlines).

Effect: Add the term "traps" in the title of Chapter 41:07:08. The proposed change would also allow for the use of wire fish traps. The proposed change would also require check and empty times by midnight of the day following when they were first set. The proposed change would align hoop net, trap and setline gear restrictions on border waters to match those for inland waters. Additionally, the rule change would allow the use of hoop nets, traps, and setlines in the James, Vermillion, and the Big Sioux River mainstreams. Finally, hoop nets and traps in the western Missouri River tributaries could be used.

Reason: The proposed changes are an effort to consolidate and simplify existing administrative rules while also providing greater recreational opportunity.

11: ARSD 41:04:07 (NEW CHAPTER – Lake Aeration).

Effect: The new chapter would create a process for the permitting of aeration systems on meandered waters or other waters to which the state has acquired a right, title or interest.

Reason: Aeration systems are a useful tool for many residents during both the summer and winter months. However, they can have biological impacts on the bodies of water they are placed in. Furthermore, they can create hazards when placed in the water during ice season.

12. ARSD Chapter 41:09:08 (Importation of Fish)

Effect: The proposed change to the chapter would allow for a single importation permit from an out-of-state source to cover an entire year from their last fish health inspection. The proposed change would also specify which species of fish need to be tested for particular pathogens.

Reason: The rule change would cut down on burdensome and redundant regulatory requirements while continuing to maintain the integrity of the fish importation process. Testing specific fish for specific pathogens reduces unnecessary testing.

13. ARSD 41:10:04:01 (List of aquatic invasive species).

Effect: The proposed rule would add, spiny waterflea, round goby, and white perch to the aquatic invasive species list.

Reason: The species listed for addition to the aquatic invasive species list have been found closer to South Dakota's neighboring waters, including Minnesota and Nebraska necessitating their addition to the list.

14. ARSD 41:10:04:06 (Containment waters)

Effect: The proposed rule would add Lake Sharpe and Francis Case to the list of containment waters to help control the spread of aquatic invasive species. An emergency rule added these waters on July 30, 2019 but will expire shortly.

Reason: Zebra mussels, an aquatic invasive species, were discovered in Lake Sharpe in the middle of July. It is a high probability that these species are also in the waters below Lake Sharpe known as Lake Francis Case. It is therefore necessary to add these to bodies of water to the list in effort to help reduce the spread.

15. ARSD Chapter 41:04:01 (Marking and zones).

Effect: The proposed change would add specific authority to the current rules and correct language for style and form.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

16. ARSD Chapter 41:04:02 (Public water zoning).

Effect: The proposed change would update language to make it consistent throughout the chapter as well as add specific authority where necessary. The proposal would also create a new rule in Grant County, prohibiting boating and swimming at Hunters Quarry.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

17. ARSD Chapter 41:04:03 (Meandered waters).

Effect: The proposed rule would update language for consistency purposes and update specific authority cited within administrative rules.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

18. ARSD Chapter 41:04:04 (Docks)

Effect: The proposed change would update language for consistency purposes throughout the chapter.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

19. ARSD Chapter 41:04:05 (Motorboats and watercraft).

Effect: The proposed change would update language and reduce redundancy of terms while also adding specific authority where needed.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.



20. ARSD Chapter 41:04:06 (Nonmeandered waters)

Effect: The proposed rule would repeal redundant language currently found in statute. As well as replace certain language for consistency purposes.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

21. ARSD Chapter 41:05:01 (Refuges)

Effect: The proposed change would update language for consistency purposes as well as repeal unnecessary administrative rules. The proposed change would also add specific authority where needed.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

22. ARSD Chapter 41:05:02 (State game refuges)

Effect: The proposed change would repeal repetitive references to administrative rules already in place. Furthermore, the proposed change would update language for consistency purposes as well as update specific authority where needed.

Reason: The Department is conducting a systematic review of the administrative rules. The Department is identifying and changing rules that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction.

23. ARSD 41:03:03:06 (Park entrance license fees).

Effect: The proposed change would increase the park entrance license fees and increase the fee for having vehicle in the park without a park entrance license.

Reason: Fees for park users have not increased in over 4 years and an increase must be made in order to adjust for inflation.

24. ARSD 41:03:04:03 (Camping permit fees).

Effect: The proposed change would increase camping fees across the state.

Reason: Fees for park users have not increased in over 4 years and an increase must be made in order to adjust for inflation.

25. ARSD 41:03:04:01 (Definitions – camping).

Effect: The proposed change would create a definition for a “tent only” campsite.

Reason: The Commission does not want to raise fees for “tent only” campsites within the state park system. As a result, a working definition must be created to carve out the specific areas which are not to have fee increases.

26. ARSD 41:03:04:07.01 (Sale of firewood).

Effect: The proposed change would increase the cost of firewood from \$5.00 to \$6.00 a cubic foot.

Reason: An increase in price for firewood is consistent inflationary rates over the period of last adjustment.

specific areas which are not to have fee increases.

27. ARSD Chapter 41:06:03 (Possession, processing and transportation of game)

Effect: The proposed change would identify South Dakota’s known chronic wasting disease (CWD) endemic areas at the hunting unit level for deer and elk and create new rules regarding the transportation and disposal of whole cervid carcasses and high-risk cervid carcass parts. A new rule would be created requiring hunters to dispose of out of state cervids, regardless of CWD status, and cervids harvested from a known South Dakota CWD endemic area through their waste management provider or a permitted landfill. A new rule would be created requiring wildlife processors to dispose of out of state cervids, regardless of CWD status, and cervids harvested from a known South Dakota CWD endemic area through their waste management provider or a permitted landfill.



Reason: CWD poses a serious challenge to wildlife managers and the implications of long-term sustainability and management of free-ranging deer and elk could be significant. The goal of these restrictions is to reduce the artificial spread of CWD requiring proper disposal of cervid carcasses.

28. ARSD Chapter 41:09:11 (Taxidermists)

Effect: The proposal would create a new rule requiring taxidermist to dispose of out of state cervids, regardless of CWD status, and cervids harvested from a known CWD endemic area within South Dakota through their waste management provider or a permitted landfill.

Reason: CWD poses a serious challenge to wildlife managers and the implications of long-term sustainability and management of free-ranging deer and elk could be significant. The goal of these restrictions is to reduce the artificial spread of CWD by limiting the movement and disposal of cervid carcasses.

29. 41:09:13:01.01 (Restrictions on training dogs on public lands and public road rights of way).

Effect: The petitioned change would alter the days of the week that individuals could use a horse for training dogs on public lands.

Reason: Currently, the days in which a person can utilize public lands for dog training are consecutive, Friday, Saturday, and Sunday. The change would stagger the days to help prevent biological disruption.

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 10<sup>th</sup> day of Sept, 2019.



Kelly R Hepler  
Kelly R. Hepler, Secretary

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