

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

A Public Hearing will be held at the Holiday Inn Express, 110 East Stanley Road, Ft. Pierre, South Dakota, on March 6, 2014, at 2:00 o'clock P.M. (CST), to consider adoption, amendment and repeal of Rules pertaining to:

1. ARSD 41:03:01 - Use of Parks and Public Lands

Effect: The proposed amendment would establish a year round prohibition against the establishment, utilization, or maintenance of a bait station on Game Production Areas, State Parks, State Recreation Areas, State Lakeside Use Areas, State Nature Areas, and State Water Access Areas.

Reason: Current rule does not allow a person to establish, utilize, or maintain a bait station from August 15 through February 1 to attract any big game animal. In recent years, there have been instances where bait stations placed on Game Production Areas (GPAs) and other department-owned property have resulted in enforcement actions being brought against individuals hunting over bait stations who claimed not to be maintaining the stations. There are also instances where hunters may not even be aware of a bait station and place themselves in a precarious situation. To eliminate these situations and other associated concerns with bait stations, the Department is recommending that bait stations be prohibited on GPAs and other department-owned property.

2. ARSD 41:04:02 – Public Water Zoning.

Effect: The proposed amendments would amend public water safety zones in Clark, Hughes and Perkins counties as follows: (a) amend the starting date that boating is prohibited on Reid Lake in Clark County from September 1 to October 20; (b) amend the existing “no wake zone” and “no swimming zone” at Spring Creek Recreation Area in Hughes County by designating the waters inside the floating breakwater protected areas as a “no wake zone,” and by designating the waters within 20 feet of the breakwater as a “no

swimming zone;” and (c) amend the boundaries of the existing “public swimming zone” and “no wake zone” on Shadehill Reservoir in Perkins County by designating the waters fronting on the north side of the reservoir beginning 150 feet from the shore directly in front of the picnic shelter and extending 250 feet to the east along the shoreline as a “public swimming zone,” and by designating the waters fronting Ketterlings Point on Shadehill Recreation Area beginning 150 feet from the shore in the center of the lodge on the east side of the point and extending around the south end of the point ending approximately in the center of the lodge on the west-facing side of the point as a “no wake zone.”

Reason: (a) The later start (from September 1 to October 20) to the boating closure on Reid Lake will allow for additional fall fishing opportunity during September and early-October, while still serving its purpose to minimize disturbance to waterfowl during the peak of the fall migration. (b) The Department is recommending that the water within 20 feet of the floating tire breakwater structure at Spring Creek Marina be designated as a “no swimming zone” because the cabling and anchoring system that holds the breakwater structure in place represents an underwater hazard that makes swimming unsafe near the breakwater. The department also recommends that the “no swimming zone” in the balance of the bay be removed. The Spring Creek Marina concessionaire, which supports the proposed change, has the right to restrict swimming off of the marina boat slips if deemed necessary. (c) The swim beach on Shadehill Reservoir located east of Ketterlings Point no longer has a bathhouse associated with it, requiring a more accurate zoning description. A boat ramp was installed several years ago on the east side of the swim beach, and the proposed revisions to the “no swim zone” would also create a buffer zone between swimmers and people launching boats from the ramp. Department staff has received numerous complaints regarding boats, including personal watercraft, that travel too close to people swimming in the water along Ketterlings Point. Most of these vessels are operating

outside of the existing “no wake zone” that is set 100 feet from shore. Extending the existing “no wake zone” to 150 feet from shore would serve to better protect swimmers and water enthusiasts from boats that are underway.

3. ARSD 41:04:05 – Motorboats and Watercraft

Effect: The proposed amendments would amend § 41:04:05:06 to incorporate the federal navigation rules of the road by reference; repeal ARSD §§ 41:04:05:10 thru 12, inclusive, due to the incorporation of federal navigation rules by reference; and promulgate a new rule to address the overloading of boats.

Reason: The navigational rules of the road for boats in ARSD Chapter 41:04:05 are not all inclusive when compared to the federal rules. In order to better address navigational situations and educate the boating public on the rules of the road, the Department recommends that the Commission adopt the inland navigation rules as listed in 33 CFR 83.01-83.19. Incorporating the federal rules by reference would allow for the repeal of three existing administrative rules. Although federal regulations have required capacity plates on monohull boats less than 20 feet in length (except sailboats, canoes, kayaks, and inflatables) since 1972, many boaters remain unaware that these regulations exist, are unsure of what they mean, or simply choose to ignore them. Law enforcement officers routinely encounter vessels being operated while overloaded. Additionally, the department receives numerous calls from the boating public regarding the laws and regulations related to capacity plates on vessels. Adopting a rule addressing overloading of boats will allow law enforcement to better address overloading instances that occur on the water and enable agency staff to more effectively respond to inquiries from the boating public.

4. ARSD 41:05:02 – Refuges.

Effect: The proposed amendments would reclassify Reid Lake State Game Refuge in Clark County to Reid Lake Waterfowl Refuge; reclassify White Lake State Game Refuge

in Marshall County to White Lake Waterfowl Refuge and modify the boundary description of this refuge; eliminate the Stink Lake Waterfowl Refuge in Marshall County; eliminate the Dry Lake State Waterfowl Refuge in Hamlin County; and eliminate the Bullhead Lake State Waterfowl Refuge in Roberts County.

Reason: Reclassification of the Reid Lake refuge would increase hunter opportunity. Reclassification of the White Lake Refuge is consistent with the department's habitat management plans, is supported by the private landowner who owns property within the refuge, and would provide additional upland hunting opportunities for the public. Maintaining the Stink Lake, Dry Lake and Bullhead Lake Refuges as state waterfowl refuges is no longer necessary to accomplish department waterfowl management objectives.

5. New Rule – Authorize purchase and sale of the skins of lawfully taken cottontail rabbits and fox squirrel, grey squirrel, and red squirrel.

Effect: The Commission would promulgate a new administrative rule to allow the purchase and sale of the skins of lawfully taken cottontail rabbits and fox squirrel, grey squirrel, and red squirrel.

Reason: An interested party petitioned the Commission to propose a new rule to allow the buying and selling of cottontail rabbits and squirrels. Existing state law authorizes the sale of plumage and skins of lawfully taken Chinese ringneck pheasant, sharptail grouse, prairie chicken and hungarian partridge, and the petitioner believes there is no reason not to also include lawfully taken cottontail rabbits and squirrels as they are also small game.

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 its consideration. All written and email comments must include the name, home town/city and state 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. Handicapped persons may contact the undersigned for assistance.

Dated this _____ day of February, 2014.

(SEAL)

Jeffrey R. Vonk, Secretary

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