

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

Nonmeandered Waters Chapters 41:04:06

Commission Meeting Dates:	Proposal	Nov 4-5	Teleconference
	Public Hearing	March	Teleconference
	Finalization	March	Teleconference

DEPARTMENT RECOMMENDATION

- Create a new rule to establish a procedure for the public to request a navigation lane through a closed nonmeandered body of water when no other alternative legal access is available.
- An individual could petition the Commission for a rule change to establish a navigation lane in rule. This would then follow our administrative rule change process and provide for adequate public notice and allow for public comment through written comments and public testimony at the public hearing prior to finalization.
- Sample Rule:
 - ARSD 41:04:06:06 – Transportation lane petition. Upon receipt of a petition to establish a transportation lane the commission shall, at their next regularly schedule commission meeting, consider the request and either deny, grant, or modify the petition. The department shall notify any landowner that may be affected by the proposed transportation lane. If the commission grants or modifies a petition, it shall be established by rule pursuant to SDCL 1-26 in this chapter. The petitioner shall demonstrate the necessity of a transportation lane by meeting the criteria as laid out in SDCL 41-23-16.
 - ARSD 41:04:06:06.01 – Transportation lanes established. While accessing the transportation lane, the individual shall take the most direct path to the open nonmeandered body of water and shall not hunt, fish, or trap in any manner while in the transportation lane. The department shall be responsible for marking all transportation lanes established pursuant to this chapter. Transportation lanes established in this rule shall be reviewed for necessity and reported to the commission prior to December 1 of each year. ~~The following transportation lanes are established for transportation purposes:~~

SUPPORTIVE INFORMATION

During a special legislative session in 2017, the Legislature passed the nonmeandered waters compromise. As part of the legislation, the Commission is obligated to promulgate rules to establish a process whereby a person may petition the commission to open a portion of waters or ice of a closed nonmeandered lake for the limited purposes of transportation to a portion of a nonmeandered lake that is open for recreational use.

RESIDENT/NONRESIDENT CRITERIA

Not applicable. The regulation would apply the same to residents and nonresidents.

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate?
 - a. No – the regulation would create an opportunity for the public to access blocked bodies of water.
2. Does the regulation increase the opportunity for new and existing users?
 - a. Yes – currently, there is no process in place to request a transportation lane through closed nonmeandered bodies of water.

APPROVE _____	MODIFY _____	REJECT _____	NO ACTION _____
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3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists?
 - a. It has a positive impact by creating a fair process where both landowners and recreational users have input as to how the lanes should be created.
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors?
 - a. Creating more opportunities of access provides greater opportunities for recreating and thus helps get more families outdoors.

APPROVE _____	MODIFY _____	REJECT _____	NO ACTION _____
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