

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

GENERAL PROVISIONS

Chapter 41:07:01

Commission Meeting Dates:	Proposal	July 20,2023	Chamberlain
	Public Hearing	Sept. 7,2023	Watertown
	Finalization	Sept. 7-8,2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Modify language to better clarify that a resident is not in violation of any season, daily, or possession limit established for the species of fish in a man-made water body on land owned by the resident provided the resident owns the bed of the water body in its entirety.
2. Allow invasive carps and rough fish to be taken with dip nets.

SUPPORTIVE INFORMATION

1. Would provide clarification of license and limit requirements of landowners on man-made waterbodies on their own land.
2. Silver and bighead carp are not generally encountered by anglers using traditional hook and line methods, limiting opportunity for harvest by anglers. Allowing the use of dip nets to take invasive carps and rough fish would increase opportunity while having no biological impacts.

DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the changes recommended for Commission proposal.

41:07:01:20. Authorization for landowner to perform fisheries management activities --
Conditions. The Secretary may grant authorization without fee to a landowner, or the landowner's designee, to conduct fisheries management activities on created, man-made impoundments that only inundate private land under the following conditions:

(1) Activities permitted under this authorization include the use of special equipment, stocking permitted species of fish, chemical control of vegetation, and fish removal beyond the allowance of the applicable fish limit;

(2) The authorized landowner, or the landowner's designee, shall notify a Conservation Officer prior to transporting live fish or fish in quantities exceeding applicable fish limits away from the private land where the waters are located;

(3) Except as provided in SDCL 41-6-2, Ppersons fishing in waters included in this authorization shall abide by applicable fish limits in accordance with § 41:07:03; and

(4) That access to a requested water is entirely under the applicant's control by ownership, lease, or easement. If a requested water is not entirely owned by the applicant, then the applicant shall provide with the application a true and correct copy of the written lease or easement.

41:07:01:17. Liberalized take of silver carp, bighead carp, rough fish, smelt, and lake herring. Smelt and lake herring may be taken by hook and line, seines, lift nets, cast nets, and dip nets. Silver carp and bighead carp that inadvertently jump into any boat or are netted from the air using a dip net may be retained. Silver carp, bighead carp, and rough fish may be taken with dip nets. No person may transport live smelt, ~~live silver carp, or live bighead carp~~ or fish defined as aquatic invasive species in 41:10:04:01, away from the water in which they were taken.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate? No.
2. Does the regulation increase the opportunity for new and existing users? Yes.
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? Provides additional opportunity.
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? Yes.

FISCAL IMPACT

Not applicable

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

BAIT Chapter 41:09:04

Commission Meeting Dates:	Proposal	July 20,2023	Chamberlain
	Public Hearing	Sept. 7,2023	Watertown
	Finalization	Sept. 7-8,2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Clarify that traps, seines, dip nets, lift nets, and cast nets may only be used to take bait species listed in the rule describing species that may be taken as bait for noncommercial use.
2. Remove the term “minnow” from the description of traps allowed for use to take bait species, as other types of traps are used to take non-fish bait species described in the bait chapter.

SUPPORTIVE INFORMATION

1. Statutes and administrative rules outlining what is classified as prohibited bait, what can be taken for use as bait, using methods other than hook and line, and what can be used as bait are confusing. Clarifying that the bait species that can be taken with traps, seines, dip nets, lift nets, and cast nets, and for which specific limits apply when using these gears, are those also listed in the bait chapter, will help clarify rules for taking bait.
2. Traps, seines, dip nets, lift nets, and cast nets are prohibited methods of taking most fish and other aquatic animals. The main exemption to this prohibition is for taking specific fish, crayfish, frogs, and salamander species for use as bait, with those species, and associated limits, being listed in the bait chapter.
3. As there are no mesh-size or size restrictions for traps used to take bait species and traps are used to other types of bait besides baitfish, removing the word “minnow” clarifies that other types of traps may be used.

DRAFT ADMINISTRATIVE RULE CHANGES

The following draft changes are intended to incorporate the changes recommended for Commission proposal.

41:09:04:02.04. Species that may be taken as bait for noncommercial use. Species that may be taken as bait by lawful anglers for noncommercial use, by methods described in 41:09:04:04, are: flathead chub, western silvery minnow, plains minnow, fathead minnow, white sucker, creek chub, golden shiner, emerald shiner, spottail shiner, gizzard shad, tiger salamander (all subspecies), leopard frog (all subspecies), crayfish (*Cambarus diogenes*, *Orconectes immunis*, *Orconectes virilis*, and *Orconectes causeyi*), freshwater shrimp, and leeches.

41:09:04:04. Seines, nets, and traps limited. Licensed resident wholesale and retail bait dealers may possess and use regular or bag seines up to 50 feet long and six feet deep and traps larger than 12 inches by 36 inches. All traps must have a rigid entrance no larger than one inch wide and trap throats exposed above the surface of the water must be blocked by a solid shield or mesh to prevent the entrapment of waterfowl. No seine, net, or trap, used for the commercial taking of bait, may contain flexible mesh larger than three-eighths inch square.

The department may issue a permit for the use of a seine, net, or trap, larger than specified, if the device is used, with department approval, to stock public waters with white suckers for rearing and harvest.

There are no mesh-size or size restrictions for minnow traps, seines, dip nets, lift nets, or cast nets used to take bait for noncommercial use.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate? NA
2. Does the regulation increase the opportunity for new and existing users? NA
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? NA
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? NA

FISCAL IMPACT

Not applicable

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

FISH LIMITS Chapter 41:07:03

Commission Meeting Dates:	Proposal	July 20,2023	Chamberlain
	Public Hearing	Sept. 7,2023	Watertown
	Finalization	Sept. 7-8,2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Establish a catch and release season for lake sturgeon on Big Stone Lake.

SUPPORTIVE INFORMATION

1. The lake sturgeon population in Big Stone Lake is in year nine of a 20-year reintroduction program, with annual stockings occurring.
2. Minnesota currently has a catch and release season established and the recommended changes would match this regulation.
3. A catch and release season would allow for anglers to target these fish during the designated period of the year and have little to no biological impact on the population.

DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the changes recommended for Commission proposal.

41:07:03:02. South Dakota-Minnesota boundary waters. In the South Dakota-Minnesota boundary waters no person may harvest in one day or have in possession at any time more than the following:

- (1) Six largemouth bass or smallmouth bass or combination thereof;
- (2) Six northern pike;
- (3) Four walleye of any species combined; however, no more than one may be 20 inches or greater in length;
- (4) Five catfish of any species combined; however, no more than one may be over 24 inches in length;
- (5) Ten crappie of any species combined;
- (6) Fifteen yellow perch, possession limit 30;
- (7) One hundred bullheads;
- (8) Twenty rock bass;
- (9) Ten bluegill or sunfish, or combination thereof;
- (10) An unlimited number of rough fish and white bass; and
- (11) The season for all species of sturgeon is closed, except a lake sturgeon season on Big Stone Lake will be open to catch-and-release angling only from June 16 through April 14.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate?
2. Does the regulation increase the opportunity for new and existing users? Yes, by allowing users to target lake sturgeon during a specified period.
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? NA
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? NA

FISCAL IMPACT

Not applicable

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

GENERAL PROVISIONS AND HOOP NETS, TRAPS, SETLINES, AND FLOATLINES

Chapters 41:07:01 and 41:07:08

Commission Meeting Dates:	Proposal	July 20-21,2023	Chamberlain
	Public Hearing	Sept. 7,2023	Chamberlain
	Finalization	Sept. 7-8,2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Include the cost of hoop net, trap and setline licenses with other fishing license fees.
2. Clarify that up to ten floatlines may be fished under a setline license.

SUPPORTIVE INFORMATION

1. Including the cost of resident hoop net, trap and setlines licenses with other fishing license fees reduces the number of administrative rules needed to define costs.
2. A resident angler who purchases a setline license can fish one setline, or up to ten floatlines, with that license. The setline license is included in SDCL 41-6-2 and this change will clarify that floatlines can also be used under this license type.

DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the changes recommended for Commission proposal.

41:07:01:12. Fishing license fees. Fishing license fees are as follows:

- (1) Resident fishing license, \$28;
- (2) Resident senior fishing license, age 65 or over, \$12;
- (3) Nonresident fishing license, \$67;
- (4) One-day fishing license, valid from 12:01 a.m. to 12:00 midnight, inclusive:
 - (a) Resident, \$8;
 - (b) Nonresident, \$16;
- (5) Nonresident three-consecutive-days fishing license, \$37; ~~and,~~
- (6) Special paddlefish permit, \$25; ~~and,~~
- (7) Resident hoop and trap net, \$10; and
- (8) Resident setline, \$5.

~~**41:07:08:01. License requirements and fees.** Hoop net, trap, setline, and floatline licenses may be sold only to residents of this state. The fee for each hoop net or trap license is ten dollars. The fee for each setline or floatline license is five dollars.~~

41:07:08:02. Maximum number of hooks allowed on setlines and floatlines -- Mechanical devices prohibited. No more than 20 hooks may be attached to any setline. No more than one hook maybe attached to any floatline. A person may not use a setline or floatline that operates by a reel or any mechanical device. One setline, or up to ten floatlines, may be used to fish at one time with a setline ~~and floatline~~ license.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate? NA
2. Does the regulation increase the opportunity for new and existing users? NA
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? NA
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? NA

FISCAL IMPACT

Not applicable

APPROVE ____ **MODIFY** ____ **REJECT** ____ **NO ACTION** ____

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

PADDELFINH SEASON

Chapter 41:07:05

Commission Meeting Dates:	Proposal	July 20,2023	Chamberlain
	Public Hearing	Sept. 7,2023	Watertown
	Finalization	Sept. 7-8,2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Increase the number of resident paddlefish tags during the Lake Francis Case snagging/archery season from 350 to 500 tags.

SUPPORTIVE INFORMATION

1. Harvest modeling estimates indicate a harvest of approximately 400 individuals annually would not negatively impact the population.
2. Since 2012, harvest has ranged from 116 to 251 paddlefish and averaged 186 (53% harvest success).
3. Allowing additional tags would increase opportunity while still staying below safe harvest estimates if angler success is similar to previous years.

DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the changes recommended for Commission proposal.

41:07:05:02. Paddlefish season in special management areas. Any paddlefish angler 18 years of age and older shall obtain and have in possession a valid South Dakota fishing license and a valid, nontransferable paddlefish permit and associated unlocked tag to take or attempt to take a paddlefish with a bow and arrow or a crossbow or take or attempt to take paddlefish or rough fish by snagging. A Nebraska resident possessing a South Dakota nonresident paddlefish permit is exempt from the South Dakota fishing license requirement if the Nebraska resident angler possesses a valid Nebraska fishing license or is legally exempt from compliance with Nebraska license or permit requirements. Any paddlefish angler under 18 years of age shall have a valid paddlefish permit and associated unlocked tag in possession while shooting paddlefish with bow and arrow or a crossbow or snagging paddlefish or rough fish.

Each paddlefish caught and kept must have the tag immediately affixed to the fish and locked in the manner and place indicated in the instructions provided with the tag. Each paddlefish caught and not kept must be immediately returned, unharmed, to the water from which it was taken. All paddlefish anglers shall cast for and hook their own fish. No person may attempt to snag any fish after all paddlefish tags issued to the person have been locked.

- (1) The snagging season for paddlefish and rough fish is open on the South Dakota-Nebraska boundary waters below Gavin's Point Dam and on the Big Sioux River from the I-29 bridge to the confluence of the Big Sioux River and the Missouri River from October 1 through October 31.

The snagging hours on the South Dakota-Nebraska Boundary waters and areas of the Big Sioux River open to paddlefish snagging are from 7:00 a.m. to 7:00 p.m. central time daily. Only a legal angler with a valid paddlefish permit and associated unlocked tag may snag paddlefish and rough fish during this season.

For the South Dakota-Nebraska boundary waters the annual quota of 3,200 fish is allocated by a permit and tag issued by each state according to the following schedule: Nebraska - 1,600 permits; South Dakota - 1,550 resident and 50 nonresident permits. Permits and associated tags are available by lottery drawing after application. Any resident or nonresident permit remaining after the first lottery drawing is available on a first-come, first-served basis to any person not already holding a paddlefish permit, who applies. After September 1, a person may apply for a second permit. A person may obtain a maximum of two permits a year.

(2) Paddlefish may be taken from sunrise to sunset from June 1 through June 30 from the Missouri River below Gavin's Point Dam with a bow and arrow. In addition to a bow and arrow, a crossbow may be used to take paddlefish downstream from the Highway 81 bridge.

Except as provided in this rule, an archery paddlefish angler 18 years of age and older shall obtain and have possession of a valid South Dakota fishing license and a valid, nontransferable paddlefish permit and associated tag available from the licensing section of the department before participating in archery fishing for paddlefish. A Nebraska resident possessing a South Dakota nonresident archery paddlefish permit is exempt from the South Dakota fishing license requirement if the Nebraska resident angler possesses a valid Nebraska fishing license or is legally exempt from compliance with Nebraska license or permit requirements. Any paddlefish angler under 18 years of age shall have a valid paddlefish permit and associated tag in possession while archery fishing paddlefish.

Two hundred fifty-five archery permits and associated tags are available to residents by lottery drawing after application. Individual paddlefish archery anglers may apply for a second permit and associated tag if any are available following the initial lottery drawing. Anglers may obtain a maximum of two archery paddlefish permits and associated tags each year. An additional eight percent of the permits available to residents may be issued to nonresidents by lottery drawing after application.

(3) Paddlefish and rough fish season is open on the waters of Lake Francis Case and the White River up to the Highway 47 bridge from May 1 through May 31. Paddlefish may be taken by snagging, bow and arrow, or a crossbow.

The snagging and archery hours on the waters of Lake Francis Case and the White River up to the Highway 47 bridge are from 6:00 a.m. through 9:00 p.m., central time daily. Only a legal angler with a valid paddlefish permit and associated unlocked tag may shoot paddlefish with a bow and arrow or snag paddlefish and rough fish during this season.

For the waters of Lake Francis Case and the White River up to the Highway 47 bridge, the annual quota of ~~350~~500 fish is allocated by a permit and tag. Permits and associated tags are available by lottery drawing after application. Any resident permit remaining after the first lottery drawing is available first-come, first-served to any applicant not already holding a paddlefish permit. After April 1, a person may apply for a second permit. A person may obtain a maximum of two permits a year.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate? NA
2. Does the regulation increase the opportunity for new and existing users? Yes, by increasing the number of paddlefish tags available to residents.
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? NA
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? NA

FISCAL IMPACT

Minimal increase to license sales.

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____

GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

SPEARING

Chapter 41:07:06

Commission Meeting Dates:	Proposal	July 20, 2023	Chamberlain
	Public Hearing	Sept. 7, 2023	Watertown
	Finalization	Sept. 7-8, 2023	Watertown

DEPARTMENT RECOMMENDATION

Recommended changes:

1. Allow for rainbow trout to be harvested by legal spearing methods from reservoirs within the boundaries of the Black Hills Fish Management Area.

SUPPORTIVE INFORMATION

1. Rainbow trout within Black Hills Fish Management Area reservoirs are managed as put-and-take fisheries with the goal that stocked fish are harvested.
2. Allowing spearing of rainbow trout would increase user opportunity while having no biological impacts.

DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the changes recommended for Commission proposal.

41:07:06:03. Areas open to spearing of game fish. Except as otherwise provided in this section, game fish, except paddlefish, muskie, and sturgeon, may only be taken with a spear gun, spear, crossbow, or bow and arrow, from one-half hour before sunrise to one-half hour after sunset, in the following areas during the dates listed:

- (1) South Dakota-Nebraska boundary waters from the South Dakota-Nebraska state line downstream, July 1 through December 31;
- (2) All inland waters, May 1 through March 31, with the following exceptions:
 - (A) The taking of salmonids within the boundaries of the Black Hills Fisheries Management Area is prohibited, however rainbow trout may be taken within reservoirs;
 - (B) The taking of walleye from lakes with a daily limit of one walleye is prohibited; and
 - (C) Northern pike and catfish may be taken for noncommercial purposes, year-round, from all inland waters, except from Lynn, Middle Lynn and Amsden Lakes in Day County, Lake Sinai and Twin Lake (east of U.S Highway 81) in Brookings County, Twin Lake (west of U.S. Highway 81) in Kingsbury County, and North Island and South Island Lakes in McCook and Minnehaha Counties; and
- (3) Northern pike and catfish may be taken from all South Dakota-Minnesota boundary waters, except the Bois de Sioux River, November 15 through the last Sunday of February.

Upon written request, the commission may, by resolution, temporarily open other areas to the public.

RESIDENT/NONRESIDENT CRITERIA

1. The Issue – NA
2. Historical Considerations – NA
3. Biological Considerations – NA
4. Social Considerations – NA
5. Financial considerations – NA

RECRUITMENT, RETENTION, REACTIVATION (R3) CRITERIA

1. Does the regulation or fee inhibit a user's ability to participate? No.
2. Does the regulation increase the opportunity for new and existing users? Yes, by increasing the legal methods of take for rainbow trout in Black Hills reservoirs.
3. How does the regulation impact the next generation of hunters, anglers, trappers and outdoor recreationists? NA
4. Does the regulation enhance the quality of life for current and future generations by getting families outdoors? Yes.

FISCAL IMPACT

Not applicable

APPROVE _____ MODIFY _____ REJECT _____ NO ACTION _____