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## State NPDES Authority Statutes:

*South Dakota*



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# A National Agricultural Law Center Research Publication

## State NPDES Authority Statutes: South Dakota

[SDLC § 34A-2-6](#)

[SDLC § 34A-2-27](#)

[SDLC § 34A-2-28](#)

[SDLC § 34A-2-33](#)

[SDLC § 34A-2-36](#)

[SDLC § 34A-2-36.2](#)

[SDLC § 34A-2-49](#)

[SDLC § 34A-2-93](#)

*Current through the 2022 legislative session.*

### **§ 34A-2-6. Planning Consistent with Federal Requirements – Maximum Daily Loads.**

The secretary may establish and conduct a continuing planning process consistent with the requirements of the Federal Water Pollution Control Act, as amended to January 1, 2011, including the establishment and application of maximum daily loads of pollutants.

### **§ 34A-2-27. Construction Permits Required for Activities Discharging Wastes into Water – Violation.**

No person may carry on any of the following activities without a valid construction permit from the water management board for the disposal of all wastes which are, or may be, discharged thereby into the groundwaters of the state, nor may any person carry on any of the following activities without approval of plans and specifications from the secretary of the department pursuant to § 34A-2-29 for the disposal of all wastes which are, or may be, discharged thereby into surface waters of the state:

- (1) The construction, installation, modification, or operation of any disposal system or part thereof, or any extension or addition thereto;
- (2) The increase in volume or strength of any wastes in excess of the permissive discharge specified under any existing permit;
- (3) The construction, installation, or operation of any industrial, commercial, or other establishment, or any extension or modification thereof or addition thereto, the operation



of which would cause an increase in the discharge of wastes into the groundwaters of the state or would otherwise alter the physical, chemical, or biological properties of any groundwaters of the state in any manner not already lawfully authorized; or

(4) The construction or use of any new outlet for the discharge of any waters into the waters of the state.

A violation of this section is subject to § 34A-2-75.

**§ 34A-2-28. Rules for Permits to Discharge Wastes – Plans and Specifications for Disposal Systems – Violation.**

The board shall promulgate rules pursuant to chapter 1-26 governing application, public notice, and public participation for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems.

A violation of rules promulgated pursuant to this section is subject to § 34A-2-75.

**§ 34A-2-33. Certification of Compliance with Federal Pollution Control Requirements.**

The secretary may certify, in accordance with rules promulgated by the board pursuant to chapter 1-26, that an applicant for a federal license or permit necessary to conduct any activity which may result in a discharge into waters of the state has satisfactorily shown that the applicant will comply with sections 301, 302, 306, and 307 of the Federal Water Pollution Control Act as amended to January 1, 2011. This section and § 34A-2-34 shall be interpreted to implement the purposes of section 401 of the Federal Water Pollution Control Act as amended to January 1, 2011.

**§ 34A-2-36. Permit to Discharge Waste into Surface Waters Required – Issuance – Maximum Duration – Standards to be Met – Violation.**

No person may discharge any waste, pollutant, or combination of pollutants, into surface waters from a point source without a permit consistent with rules promulgated by the board pursuant to chapter 1-26 and this chapter. A violation of this section is subject to § 34A-2-75.

The secretary may, after notice and opportunity for public hearing, issue a permit for the discharge of any waste, pollutant, or combination of pollutants into surface waters, for a period not to exceed five years, or for a period not to exceed ten years for a concentrated animal operation that is not required to have a permit under 40 C.F.R. § 122.23(d)(1), as of January 1, 2021, upon condition that such discharge meets or will meet all applicable state and federal water quality standards and effluent standards and all other requirements of this chapter. A violation of a condition of a permit issued pursuant to this section is subject to § 34A-2-75.



### **§ 34A-2-36.2. Permit for Concentrated Animal Feeding Operations.**

Each concentrated animal feeding operation, as defined by Title 40 Codified Federal Regulations Part 122.23 dated January 1, 2007, shall operate under a general or individual water pollution control permit issued pursuant to § 34A-2-36.

### **§ 34A-2-49. Grounds for Revocation, Suspension, or Modification of Permit.**

Any permit issued pursuant to this chapter may be revoked, modified, or suspended, in whole or in part, during its term for cause, including the following:

- (1) Violation of any condition of the permit;
- (2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;  
or
- (3) Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

### **§ 34A-2-93. Promulgation of Rules by Board.**

The board may promulgate rules pursuant to chapter 1-26:

- (1) To establish surface and ground water quality standards;
- (2) To establish design and installation requirements for on-site wastewater systems;
- (3) To establish criteria for water pollution control facilities, to include facilities constructed for the protection and monitoring of groundwater;
- (4) To establish the present and future beneficial uses of all waters under this chapter;
- (5) To establish procedures for granting variances from water quality standards;
- (6) To establish procedures for conducting inspections;
- (7) To establish contested case procedures;
- (8) To establish secondary treatment standards for wastewater facilities;
- (9) To establish standards for surface water discharge permits;
- (10) To establish pretreatment standards and requirements for local pretreatment programs;
- (11) To establish standards for aboveground and underground storage tanks;
- (12) To establish financial responsibility requirements for owners of underground and aboveground storage tanks;
- (13) To establish standards for the remediation and cleanup of contaminated soils. The standards relating to cleanup of petroleum contamination shall be based upon risk to



human health and safety as determined by the board. The board may adopt standards relating to cleanup of contamination consistent with the American Society for Testing and Materials Standard ES38-94, entitled Emergency Standard Guide for Risk Based Corrective Action Applied at Petroleum Release Sites, as in effect on January 1, 2011, or other generally accepted risk-based cleanup methods;

(14) To establish standards for bulk chemical storage facilities;

(15) To establish requirements for underground injection control;

(16) To establish a groundwater discharge permit program;

(17) To establish a delegated national pollutant discharge elimination system program as provided for under 40 CFR Part 123 as amended to January 1, 2011, and wastewater pretreatment program as provided for under 40 CFR Part 403 as amended to January 1, 2011;

(18) To establish a priority listing for projects funded under the construction grant program; and

(19) To establish requirements for approval of plans for water pollution control facilities and water supply systems.

The board shall also hold any hearings necessary for the proper administration of this chapter and initiate any action in court for the enforcement of this chapter.

