



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

Nutrient Management Plan Statutes & Regulations

South Dakota

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Nutrient Management Plan

STATE OF SOUTH DAKOTA

- 1) **S.D. Codified Laws, § 34A-2-109**
- 2) **S.D. Codified Laws, §§ 34A-2-30, 40, 44, 93; ARSD 74:52:02:28, 30**

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the South Dakota Legislative Research Council.

1) S.D. Codified Laws, § 34A-2-109

§ 34A-2-109. Fertilizer and pesticide use – Annual review – State management plans.

In conjunction with the Department of Agriculture, state universities, and other interested parties, the secretary shall annually review new studies and data that relate to the relationships between fertilizer and pesticide use practices and the quality of waters of the state. From this review, the state shall formulate and revise as necessary state management plans for the use of fertilizers and pesticides that are based on protecting water quality and preventing groundwater pollution. These management plans will be based on use practices within the state as a whole or in specific areas within the state depending on hydrogeological differences, and shall be used by the state in regulating fertilizers and pesticides pursuant to chapters 38-19, 38-20A and 38-21 in developing future contingency plans, and in performing public education.

2) S.D. Codified Laws, §§ 34A-2-30, 40, 44, 93; ARSD 74:52:02:28, 30

§ 34A-2-30. Rules regarding permit procedure.

The board shall promulgate rules pursuant to chapter 1-26 regarding the issuance, denial, modification, or revocation of permits governed by this chapter.

§ 34A-2-40. Recording, reporting and inspection conditions in permit to discharge.

The secretary, in accordance with rules promulgated by the board pursuant to chapter 1-26, may prescribe terms and conditions for permits issued under this chapter to ensure compliance with applicable state and federal effluent standards and water quality standards, including requirements concerning recording, reporting, monitoring, entry, and inspection to the extent allowed under this chapter.

§ 34A-2-44. Records, monitoring and reporting required on pollution sources.

The secretary may require the owner or operator of any point source, including an industrial user of a publicly owned treatment works, to:

- (1) Establish and maintain records;
- (2) Prepare and submit reports;
- (3) Install, use, and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods;
- (4) Sample effluents; and
- (5) Provide such other information as the secretary may reasonably require.

§ 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.

74:52:02:28. Application requirements for new and existing concentrated animal feeding operations

New and existing concentrated animal feeding operations shall provide the following information, using the application form provided by the secretary:

(1) The name of the owner or operator;

(2) The facility location and mailing address;

(3) Latitude and longitude of the entrance to the production area;

- (4) A topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the operation and showing the specific location of the production area;
- (5) Specific information about the number and type of animals, whether in open confinement or housed under roof, including beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, and other;
- (6) The type of containment and storage, such as anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other and total capacity for manure, litter, and process wastewater storage in tons or gallons;
- (7) The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
- (8) Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons;
- (9) Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons;
- (10) For CAFOs that must seek coverage under a permit after December 31, 2006, a nutrient management plan that will be implemented upon the date of permit coverage;
- (11) The activities being conducted which require the applicant to obtain a SWD permit;
- (12) From one to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility;
- (13) The operator's address, telephone number, ownership status, and federal, state, private, public, or other entity status;
- (14) Whether the facility is located on Indian lands;
- (15) A list of all other relevant environmental permits or construction approvals received or required by state or federal law;
- (16) Manure management system plans and specifications for review and approval in accordance with chapter 74:53:04;
- (17) A brief description of the nature of the business;

(18) Any other information required by the secretary to determine any significant adverse environmental effects of the discharge;

(19) The signature of the certifying official under § 74:52:02:18;

(20) Whether the applicant, any officer, director, partner, or resident general manager making the application meets any of the criteria contained in SDCL 1-40-27; and

(21) Whether the application substantially duplicates an application by the same applicant which was denied by the secretary within the past five years and which has not been reversed by a court of competent jurisdiction.

Subdivisions (1) to (10), inclusive, of this section must also be included in any notice of intent for coverage under a general permit for concentrated animal feeding operations.

74:52:02:30. Permit requirements for the land application of manure, litter, and process wastewater

Any permit for a concentrated animal feeding operation must include technical standards for nutrient management established by the secretary to minimize nitrogen and phosphorous transport from land application fields to surface waters of the state.