



2021 South Dakota Legislature

Senate Bill 52

Introduced by: The Committee on Agriculture and Natural Resources at the request of the Department of Environment and Natural Resources

1 **An Act to revise the permit duration on certain concentrated animal feeding**
 2 **operations.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 34A-2-36 be AMENDED.

5 **34A-2-36. Permit to discharge waste into surface waters required--**
 6 **Issuance--Maximum duration--Standards to be met--Violation.**

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

11 The secretary may, after notice and opportunity for public hearing, issue a permit for
 12 the discharge of any waste, pollutant, or combination of pollutants into surface waters,
 13 for a period not to exceed five years, or for a period not to exceed ten years for a
 14 concentrated animal operation that is not required to have a permit under 40 C.F.R. §
 15 122.23(d)(1), as of January 1, 2021, upon condition that such discharge meets or will
 16 meet all applicable state and federal water quality standards and effluent standards and
 17 all other requirements of this chapter. A violation of a condition of a permit issued pursuant
 18 to this section is subject to § 34A-2-75.

19 **Section 2.** That § 34A-2-112 be AMENDED.

20 **34A-2-112. General permit for category of water pollution control--**
 21 **Secretary issued--Terms and conditions--Suspension, revocation or**
 22 **modification--Violation.**

23 After public notice in at least three newspapers of general circulation in this state
 24 and notice to all municipalities, counties, and tribal governments and opportunity for

1 public hearing, the secretary may issue a general permit for a category of water pollution
2 control. A general permit issued by the secretary may be subject to such terms and
3 conditions for installation, establishment, modification, operation, or abandonment of a
4 category of water pollution control as the secretary finds reasonably necessary to
5 adequately protect the public health, safety, welfare, and the environment of this state.
6 Water pollution control activities conducted in conformity with a general permit do not
7 require a permit issued under § 34A-2-36.

8 A general permit shall remain in effect for a period of five years, or for a period of ten
9 years for a concentrated animal feeding operation that is not required to have a permit
10 under 40 C.F.R. § 122.23(d)(1), as of January 1, 2021, from the date of issuance or until
11 suspended, revoked, or modified by the secretary. A general permit may be modified after
12 public notice and opportunity for public hearing. A general permit may be suspended or
13 revoked after publication of notice and order of suspension and revocation in at least three
14 newspapers of general circulation in this state. If an affected facility or interested party
15 wishes to contest the order, a request for hearing shall be filed with the department within
16 twenty days. A hearing on the matter shall be held as soon thereafter as practicable.
17 Notice of hearing shall be published in at least three newspapers of general circulation in
18 this state. Any facility operating under a general permit pursuant to this section, upon the
19 filing of a complaint to the secretary, and upon action by the secretary in accordance with
20 the contested case provisions of chapter 1-26, may be removed from the jurisdiction of
21 the general permit and required to obtain an individual permit. Any violation of a condition
22 of a general permit issued pursuant to this section is subject to § 34A-2-75.