



2021 South Dakota Legislature
Senate Bill 63
ENROLLED

AN ACT

ENTITLED An Act to correct technical errors and outdated provisions regarding the Department of Environment and Natural Resources.

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

Section 1. That § 1-40-20.1 be AMENDED.

1-40-20.1. Water Management Board--Transfer of certain functions to Board of Water and Natural Resources.

The functions of the Water Management Board relating to water pollution control grants, community water systems grants, and lake protection grants, respectively, are transferred to the Board of Water and Natural Resources.

Section 2. That § 34A-6-66 be AMENDED.

34A-6-66. Waste tire stockpiling and processing facilities—Promulgation of rules.

The department shall determine the number of stockpiling facilities that are necessary; and the board shall promulgate rules, pursuant to chapter 1-26, for waste tire stockpiling and processing facilities. The rules shall include the following:

- (1) The prohibition of burning within one hundred yards of a tire stockpile;
- (2) The maximum height, width, and length of a tire stockpile;
- (3) Plans to control mosquitos and rodents;
- (4) A facility closure plan;
- (5) Specifications for fire lanes between stockpiles;
- (6) Limitation of the total number of tires allowed at a single stockpile site;
- (7) Criteria for the issuance of permits to qualified waste tire stockpiling and processing facilities. No waste tire stockpiling or processing may be done without a permit; and
- (8) Appropriate waste tire processing methods.

Section 3. That § 34A-6-70 be AMENDED.

34A-6-70. Solid waste evaluation.

Each county and first class municipality shall prepare or have prepared, on or before January 1, 1993, a solid waste evaluation coordinated with the state solid waste management plan. The evaluation shall cover a fifteen-year time period, shall serve as the basis for county and municipal decisions on the need for facilities, and shall be provided to the board for its consideration in determining whether to issue facility permits under § 34A-6-1.13. The evaluation shall include an analysis of the current and projected volume of solid waste, disposal capacity including all existing and planned facilities, the potential for source reduction, reuse, recycling, resource recovery, and shared and regional recycling and waste management facilities. The evaluation shall include a full accounting of the true and total cost, including the long-term costs, of all options analyzed in the evaluation. Counties and municipalities subject to this section shall consider in their solid waste evaluation, 40 CFR parts 257 and 258 of the environmental protection agency solid waste disposal criteria commonly known as "RCRA subtitle D regulations," as finally adopted and published in the Federal Register on October 9, 1991, and as amended to January 1, 2011; the statewide comprehensive solid waste management plan; and all rules promulgated by the board.

Section 4. That § 34A-13-4 be AMENDED.

34A-13-4. Immediate corrective action by department.

To assure an adequate response to a release, the director may take corrective action if the department determines that the release constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment. Before taking any action pursuant to this section, the department shall make all reasonable efforts, taking into consideration the urgency of the situation, to order and permit a responsible person to take a corrective action and notify the owner of real property where the corrective action is to be taken.

Section 5. That § 34A-12-2 be REPEALED.

34A-12-2. One-time contribution from petroleum release compensation fund to response fund--Annual contribution to groundwater protection fund.

Section 6. That § 34A-12-3 be AMENDED.

34A-12-3. Regulated substance response fund established--Purpose--Source of funds--Continuous appropriation--Informational budget--Annual legislative review.

There is hereby established in the state treasury an operating fund to be known as the regulated substance response fund for the purpose of providing funds for the clean up of regulated substance discharges. Funds from the following sources shall be deposited into the response fund:

- (1) Direct appropriations to the response fund from the general fund;
- (2) Money, other than criminal fines assessed in criminal actions, recovered by the state in any action or administrative proceeding based upon violation of the state's environmental statutes or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings;
- (3) Interest attributable to investment of the money in the response fund;
- (4) Money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of the response fund.

All money in the response fund is continuously appropriated for the purposes specified in § 34A-12-4. All money received by the department for the response fund shall be set forth in an informational budget pursuant to § 4-7-7.2 and be annually reviewed by the Legislature.

Section 7. That § 34A-13-18 be AMENDED.

34A-13-18. Deposit and crediting of revenue.

Revenue from the following sources shall be deposited in the state treasury and credited to a petroleum release compensation fund:

- (1) Any fees imposed by § 34A-13-20;
- (2) Any money recovered by the fund pursuant to § 34A-13-9, including administrative expenses, and any money paid under an agreement, stipulation, or settlement;
- (3) Any interest attributable to investment of money in the fund;
- (4) Any money received by the secretary of environment and natural resources in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the fund;

- (5) Any money or other assets received by the secretary of environment and natural resources in connection with any loan from the fund or any account in the fund.

Section 8. That § 34A-18-10 be REPEALED.

34A-18-10. South Dakota Underground Pipeline Task Force established.

Section 9. That § 46A-6-52 be REPEALED.

46A-6-52. Annual audit of district when loan agreement in effect--Filing of copies.

Section 10. That § 46A-18-71.1 be REPEALED.

46A-18-71.1. Annual audit of district when loan agreement in effect--Filing of copies.

An Act to correct technical errors and outdated provisions regarding the Department of Environment and Natural Resources.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 63

2021 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2021

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2021
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 63
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State