

PERMIT REQUIREMENTS FOR DEVELOPMENT  
OF  
ENERGY AND OTHER SELECTED NATURAL RESOURCES  
FOR THE  
STATE OF SOUTH DAKOTA

PREPARED FOR  
OLD WEST REGIONAL COMMISSION  
AND THE  
U.S. GEOLOGICAL SURVEY

BY J. K. SMITH

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State Capitol Building		Environmental Affairs Office
Pierre, South Dakota		760 National Center
		Reston, Virginia 22092

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## SECTION 1.0

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### INTRODUCTION

## INTRODUCTION

This guide is one in a series prepared for every State. The purpose of the guidebook is to summarize environmental and land-use permits issued by the State for the development of energy and other natural resources. The guidebook is intended not only for private developers and interest groups, but also for regulatory officials of Federal, State, and local government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of South Dakota; it is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the State regulations that govern the development of such resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate State agency for further details.

The guidebook is divided into seven sections. Sections 1, 2 and 7 discuss introductory information, consolidated permit programs for the State of South Dakota, and local regulatory policies, respectively. The remaining sections discuss permits that apply to Resource Extraction Land Use Regulation, Environmental Quality Management, and Social/Ecological Preservation. Each section is divided into chapters; each chapter summarizes one permit, license, or approval. Permits administered by a single agency are generally grouped together in each section.

Each permit is discussed in the standard format shown below:

**STANDARD FORMAT FOR PERMIT SUMMARY  
CHAPTER 0.0**

**TITLE OF ACTIVITY ADDRESSED BY PERMIT, LICENSE OR APPROVAL**

**INTRODUCTION**

Description of administering agency and its role.

**A. NAME OF PERMIT OR APPROVAL**

Complete name of permit or approval.

**B. STATUTORY AUTHORITY**

Title of State statutes authorizing permit and the legal citations of each.

**C. TITLE OF REGULATION**

Title of State regulations(s) which apply to permit.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

Summary of major steps involved in the permit/approval process.

**1. APPLICABILITY.**

Includes all types of activities which require the permit.

**2. GENERAL REQUIREMENTS.**

Conditions which must be met by the project sponsor before a permit can be acquired; does not include submissions or operations requirements.

**3. SUBMISSION REQUIREMENTS.**

Types of information which the project sponsor must include in the application for the permit.

**4. PROCEDURE FOR OBTAINING PERMIT OR APPROVAL.**

Includes information on items such as submittal procedures,



completeness and technical review, public notice, comment and hearing periods, preliminary and final decisions, inspections, and processing time.

5. OPERATIONS REQUIREMENTS.

Conditions which are established by the regulatory agency following permit approval and which must be met by the project sponsor to continue operations.

6. FEES.

Costs incurred for obtaining and maintaining the permit.

7. APPEAL PROCESS.

Process whereby decisions concerning permit approval/denial by a regulatory agency can be appealed.

**E. ADMINISTERING AGENCY**

Name of the administering agency and its address, and phone number.

Name of the counterpart Federal agency and its current address, and phone number.

**APPROACH AND INTENDED PURPOSE**

The purpose is to provide a brief summary of all state-issued environmental and land-use permits which may be required for the development of energy and other natural resources. It is not intended to be a comprehensive guide to the specific requirements of each permit, but to provide a concise, easy-to-use reference on the overall State regulatory requirements a project may face. It was felt that this document would be useful not only to private developers, but to regulatory officials at the Federal, State, and local levels of government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this document assisted in the preparation of the permit summaries. The final draft of each permit summary was reviewed for accuracy and completeness by each responsible agency. Users of this document should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the publication of this document may cause significant changes in permit requirements.

The following agencies were contacted and have individually verified the content of that portion for which they have authority:

**ADMINISTERING AGENCIES**

South Dakota State Planning Bureau Capitol Building Pierre, SD 57501 (605) 773-3661	South Dakota State Geological Survey Western Field Office 308 West Boulevard Rapid City, SD 57701 (605) 394-2229
Wildlife/Mineral Development South Dakota Dept. of Game, Fish and Parks 3305 West South Street Rapid City, SD 57701 (605) 394-2391	Public Utilities Commission State Capitol Building Pierre, SD 57501 (605) 773-3201
South Dakota Dept. of Agriculture Anderson Building Pierre, SD 57501 (605) 773-3259	South Dakota Department of Transportation Transportation Building Pierre, SD 57501 (605) 773-3265
South Dakota Dep. of School and Public Lands State Capitol Pierre, SD 57501 (605) 773-3303	State Archaeologist Archaeological Research Center P. O. Box 152 Fort Meade, SD 57741

**ADMINISTERING AGENCIES (continued)**

State Historic Preservation Officer  
 State Historical Preservation Center  
 University of South Dakota  
 (605)677-5314

South Dakota Department of Water  
 and Natural Resources  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-3351

Surface Mining Program  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-4201

Air Quality Program  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-3329

Office of Water Quality  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-3351

Water Right Division  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-3352

Solid Waste Program  
 413 Foss Building  
 Pierre, SD 57501  
 (605) 773-3329

**HOW TO USE THIS GUIDEBOOK**

Due to the complexity of the statutes and the applicable rules and regulations promulgated by various agencies, it is recommended that interested parties make pre-application contact with the agencies to obtain complete information regarding permit requirements and application procedures. In addition, various Federal permits may be required. This guide does not address the issue of State regulation over Federal land, nor regulatory authority over public domain, national forest, Indian land, military land, acquired land, or Federal reservation of minerals under private surface rights. Differences that may exist in the applicability of State law to various categories of Federal land must be addressed on an individual basis by the applicant.

This guide is a general reference source and should not be used in place of legal advice. The information was collected and verified during the spring of 1981 and includes legislation as of the end of the 1981 session.

During the course of developing this guide, it became apparent that other State agencies not specifically mentioned in the chapters were of equal importance for resource development interests. These additional agencies include: the South Dakota State Department of Transportation, in relation to mowing of highway right-of-way, accesses approach, and right-of-way encroachment; and the Department of School and Public Lands for oil and gas leases by public auction and mineral exploration and licenses to remove minerals. Each agency should be contacted prior to engaging in any development activity to determine regulatory authority within the various departments and to obtain information on permit requirements and application procedures.

## HIGHWAYS

The Department of Transportation regulates facility development activities that involve use of, or encroachment on, state highways. Information concerning permit requirements is contained in the rules of the Department of Transportation.

1. Private Party Mowing Permit. Mowing of highway right-of-way is regulated as both an erosion control and safety measure. Permit requirements set dates for mowing, establish minimum liability insurance requirements, detail permissive areas of mowing and describe methods of obtaining access.
2. Permit to Occupy the Right-of-Way of Highway. The regulation accommodates placement of utility facilities on highway right-of-way while insuring placement does not interfere with the free and safe flow of traffic or otherwise impair the highway or its visual quality.
3. Permit to Construct Access Approach. This regulation controls access to public highways in order to protect the safety of the travelling public.

## ADMINISTERING AGENCY

South Dakota Department of Transportation  
 Transportation Building  
 Pierre, SD 57501  
 (605) 773-3265

## OIL AND GAS LEASES

The South Dakota Department of School and Public Lands leases or sells oil and gas leases by public auction, and issues permits for exploration, and licenses to remove any and all minerals, excluding sand, gravel and aggregates. The department also sells sand, gravel, and aggregates by the ton.

Department of School and Public Lands  
State Capital  
Pierre, SD 57501

(605) 773-3303

## SECTION 2.0

### STATE POLICY AND PROCEDURES FOR CONSOLIDATED PERMIT PROGRAM

## CHAPTER 2.1 STATE CLEARINGHOUSE

### INTRODUCTION

The South Dakota State Clearinghouse operates through the State Planning Bureau in the Office of the Governor to review applications for Federal assistance, environmental impact statements, and cooperative agreements between State agencies.

**A. NAME OF APPROVAL**

State Clearinghouse Plan Review.

**B. STATUTORY AUTHORITY**

The clearinghouse function is statutorily required for all State applications for public assistance. SDCL 4-8B.

**C. TITLE OF REGULATION**

Regulation promulgated by Federal Council on Environmental Quality, Environmental Protection Agency and the Office of Management and Budget. State regulatory authority is not applicable.

**D. SUMMARY OF APPROVAL PROCESS**

**1. APPLICABILITY.**

The primary function of the clearinghouse is to examine proposed projects for their statewide or areawide impacts and their relationships to State or areawide comprehensive plans or policies.

**2. GENERAL REQUIREMENTS.**

State agencies are required to submit information for Federal financial assistance. However, since the bureau coordinates activities among State agencies, environmental impact statements (EIS) are circulated to affected agencies as well as reviewed internally .

3. SUBMISSION REQUIREMENTS.

When an EIS or potential project is received by the bureau, copies are forwarded to the pertinent agencies for their review and comment. The bureau coordinates the comments and, if necessary, requests additional information from the applicant. An official sign-off is sent to the applicant to forward to the funding agency if no conflicts are foreseen. If a problem occurs, additional action is necessary.

4. PROCEDURE FOR OBTAINING APPROVAL.

Normally the review process is completed in 60 days.

5. FEES.

None.

**E. ADMINISTERING AGENCY**

A-95 Coordinator  
South Dakota State  
Planning Bureau  
Capitol Building  
Pierre, SD 57501

(605) 773-3661

**FEDERAL COUNTERPART**

A-95 Coordinator  
Office of Management and Budget  
New Executive Office Building  
726 Jackson Drive  
Washington, D.C. 20503

(202) 395-3980



## SECTION 3.0

### RESOURCE EXTRACTION

## **CHAPTER 3.1**

### **MINING LAND RECLAMATION**

#### **INTRODUCTION**

Mining land reclamation law requires that land affected by exploration or mineral resource extraction be reclaimed for usable and productive pursuits. This law is applicable to other chapters in this guide including Chapter 3.2, Metalliferous Mining and Chapter 3.3, Construction Materials. Lands unsuitable for exploration of mining activities may be determined by the State Board of Minerals and Environment, in the Department of Water and Natural Resources.

#### **A. NAME OF PERMIT**

Surface Mining Permit; Underground Mining Permit; Solution Mining Permit; Exploration Permit.

#### **B. STATUTORY AUTHORITY**

Surface Mining Land Reclamation Act, SDCL 45-6A, as amended, and the Administrative Procedures Act, SDCL 1-26.

#### **C. TITLE OF REGULATION**

Surface Mining Land Reclamation, ARSD 12:04.

#### **D. SUMMARY OF PERMIT PROCESS**

##### **1. APPLICABILITY.**

The law requires that upon depletion or abandonment of the natural resource, (oil and gas excluded), the affected land is usable and productive to the extent possible for agriculture or recreational pursuits or for future resources development; that water resources are not endangered; and that esthetics and a tax base are maintained.

##### **2. a. GENERAL REQUIREMENTS.**

Prior to any surface, underground, or solution mining, or mineral exploration (including exploration with heavy equipment), an operator must submit to the State Board of Minerals and Environment an application with a mining and

reclamation plan, map and reclamation bond including the following information for approval:

- (1) Revegetation of disturbed area;
- (2) Removal, storage and replacement of topsoil and overburden;
- (3) Grading and backfilling;
- (4) Disposition of toxic material; and
- (5) Erosion control.

Aggregate exploration projects for sand and gravel must reclaim area disturbed, although a permit and bond are not required.

b. REGULATORY REQUIREMENTS.

A detailed reclamation plan supplemented by the use of maps, diagrams, photographs, or other illustrative material.

3. SUBMISSION REQUIREMENTS.

Operation and reclamation plan including, at the discretion of the State Board of Minerals and Environment, and dependent on the mining involved:

- (1) Soil and vegetation survey (Soil Conservation Service).
- (2) Wildlife survey (Department of Game, Fish, and Parks).
- (3) Historic, archaeological, geologic, scientific, or recreational uses (State Archaeologist, Historical Preservation Center).
- (4) Ground water data (State Geological Survey).
- (5) Topsoil and overburden storage.
- (6) Spoil and tailings storage.
- (7) Data on erosion control and alteration of stream.
- (8) Discharge waters.
- (9) Depth and direction of mine and working head.
- (10) Roads, including type, erosion control, grade control.
- (11) Control of noxious weeds.
- (12) Control of fugitive dust.
- (13) Statement of consent of surface landowner.
- (14) Restoration plans.
- (15) Temporary or permanent abandonment (underground mining only).
- (16) Maps of area.
- (17) Previous workings on site responsibility.
- (18) Reclamation bond.
- (19) Blasting methods and control.
- (20) Exploration well plugging procedures.
- (21) Exploration well plugging costs.

(22) Temporary exploration well plugging procedures.

Reclamation plan must also be approved by the State Conservation Commission if application is for a surface, underground, or solution mine.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The director of the mining program shall advise applicant within 15 days of receipt of application that additional items are required or that application is in conformity with requirements.

b. PUBLICATION NOTIFICATION, HEARINGS.

Permit application notice is published once in county where affected land is located, at least 7 days before and not more than 30 days before meeting.

c. REVIEW AND PROCESSING TIME.

Final action by the State Board of Minerals and Environment within 60 days following receipt of complete permit application. Failure of the board to respond in writing to the reclamation plan as submitted within 30 calendar days shall constitute approval.

5. OPERATION REQUIREMENTS.

Reclamation must be initiated and maintained throughout operations. Permits are issued on a 1-year basis, with an annual report and inspection to ensure compliance.

6. FEES.

Surface, Underground, Solution Mine: \$50 initial, \$25 renewal.

Exploration: \$25 initial, \$25 renewal.

7. APPEAL PROCESS.

Operator has right of appeal as established by the Administrative Procedures Act.

**E. ADMINISTERING AGENCY**

Surface Mining Program  
Department of Water and  
Natural Resources  
413 Foss Building  
Pierre, S.D. 57501

(605) 773-4201

**FEDERAL COUNTERPART**

NONE

## CHAPTER 3.2 METALLIFEROUS MINING

### INTRODUCTION

The metalliferous mining laws administered by the State Board of Minerals and Environment in the Department of Water and Natural Resources, relate to the mining land reclamation function as set forth below and in Chapters 3.1 and 3.3.

**A. NAME OF PERMIT**

Exploration Permit; Surface Mining Permit; Underground Mining Permit; Solution Mining Permit.

**B. STATUTORY AUTHORITY**

Surface Mining Land Reclamation Act, SDCL 45-6A, as amended, and the Administrative Procedures Act, SDCL 1-26.

**C. TITLE OF REGULATION**

Surface Mining Land Reclamation, ARSD 12:04.

**D. SUMMARY OF PERMIT PROCESS**

**1. APPLICABILITY.**

The law requires that upon depletion or abandonment of the mining function, the affected land is usable and productive to the extent possible for agriculture or recreational pursuits or for future resources development; that water resources are not endangered, and that aesthetics and a tax base are maintained.

**2. a. GENERAL REQUIREMENTS.**

Prior to any surface or underground mining, mineral exploration, including mineral exploration with heavy equipment, an operator must submit to the State Board of Minerals and Environment an application with a mining and reclamation plan, map, and reclamation bond, including the following information for approval:

- (1) Revegetation of disturbed area;
- (2) Removal, storage, and replacement of topsoil and overburden;
- (3) Grading and backfilling;
- (4) Disposition of toxic material; and
- (5) Erosion control.

b. REGULATORY REQUIREMENTS.

A detailed reclamation plan supplemented by the use of maps, diagrams, photographs, or other illustrative material.

3. SUBMISSION REQUIREMENTS.

Operation and reclamation plan including, at the discretion of the state board of minerals and environment, and depending on the mining involved:

- (1) Soil and vegetation survey (Soil Conservation Service).
- (2) Wildlife survey (Department of Game, Fish, and Parks).
- (3) Historic, archaeological, geologic, scientific, or recreational uses (State Archaeologist, Historical Preservation Center).
- (4) Ground water data (State Geological Survey).
- (5) Topsoil and overburden storage.
- (6) Spoil and tailings storage.
- (7) Data on erosion control and alteration of stream.
- (8) Discharge waters.
- (9) Depth and direction of mine and working head.
- (10) Roads, including type, erosion control, grade control.
- (11) Control of noxious weeds.
- (12) Control of fugitive dust.
- (13) Statement of consent of surface landowner.
- (14) Restoration plans.
- (15) Temporary or permanent abandonment (underground mining only).
- (16) Maps of area.
- (17) Previous workings on site responsibility.
- (18) Reclamation bond.
- (19) Blasting methods and control.
- (20) Exploration well plugging procedures.
- (21) Exploration well plugging costs.
- (22) Temporary exploration well plugging procedures.

Reclamation plan must also be approved by the State Conservation Commission if application is for a surface, underground, or solution mine.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The director of the mining program shall advise applicant within 15 days of receipt of application that additional items are required or that application is in conformity with requirements.

b. PUBLICATION NOTIFICATION, HEARINGS.

Permit application notice is published once in county where affected land is located, at least 7 days before and not more than 30 days before meeting.

c. REVIEW AND PROCESSING TIME.

Final action by the State Board of Minerals and Environment within 60 days following receipt of complete permit application. Failure of the board to respond in writing to the reclamation plan as submitted within 30 calendar days shall constitute approval.

5. OPERATION REQUIREMENTS.

Reclamation must be initiated and maintained throughout operations. Permits are issued on a 1-year basis, with an annual report and inspection to ensure compliance.

6. FEES.

Surface, Underground, Solution Mine: \$50 initial, \$25 renewal.  
Exploration: \$25 initial, \$25 renewal.

7. APPEAL PROCESS.

Operator has right of appeal as established by the Administrative Procedures Act.

E. ADMINISTERING AGENCY

Surface Mining Program  
Department of Water and  
Natural Resources  
413 Foss Building  
Pierre, S.D. 57501  
(605) 773-4201

FEDERAL COUNTERPART

NONE



## **CHAPTER 3.3**

### **CONSTRUCTION MATERIALS**

#### **INTRODUCTION**

In addition to its function of mining land reclamation (Chapter 3.1 and 3.2) the State Board of Minerals and Environment in the Department of Water and Natural Resources, is responsible for reclamation of sand, gravel, and construction aggregate exploration projects, and surface mining of construction materials.

#### **A. NAME OF PERMIT**

Exploration: No permit is required (exempted under SDCL 45-6A-6.5).  
Surface Mining Permit.

#### **B. STATUTORY AUTHORITY**

Surface Mining Land Reclamation Act, SDCL 45-6A-6.5 and 45-6A-6.6.

#### **C. TITLE OF REGULATION**

Exploration: None  
Surface Mining: Surface Mining Standards ARSD 12:04:04.

#### **D. SUMMARY OF PERMIT PROCESS**

##### **1. APPLICABILITY.**

Permit required for surface mining or exploration with heavy or mechanized equipment. Permit not required for exploration for sand, gravel or construction aggregate.

##### **2. a. GENERAL REQUIREMENTS.**

Prior to any surface or underground mining, mineral exploration, including mineral exploration with heavy equipment, an operator must submit to the State Board of Minerals and Environment an application with a mining and reclamation plan, map, and reclamation bond, including the following information for approval:

- (1) Revegetation of disturbed area;
- (2) Removal, storage, and replacement of topsoil and overburden;
- (3) Grading and backfilling
- (4) Disposition of toxic material; and
- (5) Erosion control.

b. REGULATORY REQUIREMENTS.

Application for permit to surface mine and plan of reclamation.

3. SUBMISSION REQUIREMENTS.

Application and reclamation plan including, at the discretion of the state board of minerals and environment:

- (1) Soil and vegetation survey (Soil Conservation Service).
- (2) Wildlife survey (Department of Game, Fish, and Parks).
- (3) Historic, archaeological, geologic, scientific, or recreational uses (State Archaeologist).
- (4) Ground water data (State Geological Survey).
- (5) Topsoil and overburden storage.
- (6) Data on erosion control and alteration of stream.
- (7) Depth and direction plans.
- (8) Roads.
- (9) Control of noxious weeds.
- (10) Consultation with landowner.
- (11) Restoration plans.
- (12) Map of area.
- (13) Old workings responsibility.
- (14) Reclamation bond.
- (15) Surface water survey.
- (16) Boulders, tailings, and toxic materials plans.

Reclamation plan must also be approved by the state conservation commission.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The director of the mining program shall advise applicant, within 15 days of receipt of application, that additional items are required or that application is in conformity with requirements.

b. PUBLICATION NOTIFICATION, HEARINGS.

Permit application notice is published once in county where affected land is located, at least 7 days before and not more than 30 days before meeting.

c. REVIEW AND PROCESSING TIME.

Final action by the State Board of Minerals and Environment within 60 days following receipt of complete permit application. Failure of the board to respond in writing to the reclamation plan as submitted within 30 calendar days shall constitute its approval.

5. OPERATION REQUIREMENTS.

Reclamation must be initiated and maintained throughout operations. Permits are issued on a 1-year basis, with an annual report and inspection to ensure compliance, after production exceeds 5,000 tons per 12 consecutive month period. Operations of less than 5,000 tons per year are required to submit a reclamation plan and to stand an inspection.

6. FEES.

Surface Mine \$ 50 initial, \$25 renewal

7. APPEAL PROCESS.

Operator has right of appeal as established by the Administrative Procedures Act.

E.	ADMINISTERING AGENCY	FEDERAL COUNTERPART
	Surface Mining Program Department of Water and Natural Resources 413 Foss Building Pierre, S.D. 57501  (605) 773-4201	NONE

## **CHAPTER 3.4**

### **OIL AND GAS**

#### **INTRODUCTION**

The Board of Minerals and Environment adopts rules and regulations pertaining to oil and gas development in South Dakota. These rules and regulations are made available by the State Geological Survey and administered by the State Oil and Gas Supervisor under the direction of the office of the State Geologist. The administration governs energy resources exploration, extraction, reclamation, and conservation; air quality; water quality maintenance; and hazardous and toxic waste management related to the drilling and production of oil and gas activities. Exploration for oil and gas (other than wildcat wells) is also governed.

#### **A. NAME OF PERMIT**

Production Wells: Permit to Drill.

Oil and Gas Exploration: Exploration Permit.

#### **B. STATUTORY AUTHORITY**

South Dakota Codified Law: SDCL 45-8-1 through 45-8-6 and 45-9-13 for general authority, and SDCL 45-9-1 through 45-9-72 for implementing laws. Reclamation: Oil and Gas Law SDCL 45-9-15 and 45-9-15.1. SDCL 45-6A for oil and gas exploration.

#### **C. TITLE OF REGULATION**

Rules of the Board of Natural Resource Development for the Conservation of Oil and Gas in South Dakota, 1974 SDCL 52:02:01 through 52:02:12. Surface Mining Land Reclamation: ARSD 12:04.

#### **D. SUMMARY OF PERMIT PROCESS**

##### **I. APPLICABILITY.**

The conservation aspects are applicable to drilling, proration and allocation, secondary recovery and pressure maintenance, purchase and transportation of gas and oil. An exploration permit is

applicable only to oil and gas exploration wells but do not apply to wells drilled for the purpose of discovering or exploiting a known deposit of oil or gas (Chapter 3.1).

2. a. GENERAL REQUIREMENTS.

A drill, deepen or plug back permit (Form 2) is required from the state geological survey for drilling wells for the producing of oil and gas.

b. REGULATORY REQUIREMENTS.

Permits and bonds are required to regulate well spacing, protect freshwater aquifers, control pressure depletion, waste, and surface restoration, and all other operator performance.

3. SUBMISSION REQUIREMENTS.

An application for a permit to drill, deepen, or plug back (Form 2) must be filed together with:

- (1) a plat location map certified by a registered surveyor or engineer.
- (2) a plugging and performance surety bond.
- (3) a permit fee.
- (4) a surface restoration bond.
- (5) a copy of the oil and gas leasing agreement.
- (6) a certificate (Form 9) that an agreement with the land owner or leasee is being negotiated regarding compensation for damages to livestock and surface land resulting from drilling operations.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Permit granted upon satisfaction of permit requirements. Commence drilling within 90 days of issuance of permit, and may be extended beyond 90 days when approved in writing.

b. PUBLIC NOTIFICATION, HEARINGS.

20 days notice of the time and place of hearing by one

publication notice in newspapers published at Pierre, South Dakota and in county where land is affected.

c. REVIEW AND PROCESSING TIME.

If requirements are met and permit granted, no additional steps are necessary prior to drilling.

5. OPERATION REQUIREMENTS.

- a. File with the supervisor an annual organization report and monthly production report (Form 1 and Form 5);
- b. Maintain identification sign at well location;
- c. Immediate notification of fire, breaks, leaks, blow-outs;
- d. Completion report (Form 4);
- e. Plugging report (Form 7), if abandoned; and
- f. Complete surface restoration, subject to inspection by oil and gas supervisor or designee.

6. FEES.

Permit fee is \$100 per well.

Surety plugging and performance bond of \$5,000 per well or \$20,000 multiple drilling program blanket bond (Form 3).

Surface restoration bond of \$2,000 per well or \$10,000 blanket bond (Form 10).

7. APPEAL PROCESS.

Final administrative action made by the Board of Minerals and Environment. Final determination must be issued within 3 weeks after receipt of the demand. Applicant has right of appeal as established by the Administrative Procedure Act.

**E. ADMINISTERING AGENCY**

Oil and Gas Supervisor  
South Dakota State  
Geological Survey  
Western Field Office  
308 West Boulevard  
Rapid City, S.D. 57701

(605) 394-2229

**FEDERAL COUNTERPART**

U. S. Geological Survey  
Oil and Gas Division  
111 So. Wolcott, Rm 305  
Casper, WY 82601

(307) 265-5550

## **SECTION 4.0**

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### **LAND USE REGULATION**

## **CHAPTER 4.1**

### **MAJOR FACILITY SITING**

#### **INTRODUCTION**

The Public Utilities Commission has authority over and requires permits for energy conversion facilities, electric transmission lines, gas or liquid transmission lines, and their associated facilities.

#### **A. NAME OF PERMIT**

South Dakota Energy Facility Permit.

#### **B. STATUTORY AUTHORITY**

South Dakota Session Law 1979, Chapter 390. SDCL 49-41B.

#### **C. TITLE OF REGULATION**

Energy Facility Siting Rules, Chapter 20:10:22.

#### **D. SUMMARY OF PERMIT PROCESS**

##### **1. APPLICABILITY.**

Energy conversion facilities capable of generating of 100 megawatts or more; electric transmission lines and associated facilities with a design of 250 kilovolts or more; electric transmission lines and associated facilities with a design of 115 to 250 kilovolts, if the facility does not follow section lines, property lines, roads, highways or railroads; gas or liquid transmission lines; and facilities for transporting coal, gas, liquid hydrocarbons, or liquid hydrocarbon products.

##### **2. a. GENERAL REQUIREMENTS.**

Applications are to be filed with the commission not less than 6 months prior to the planned date of the start of construction. The commission may waive compliance with any provisions under certain immediate or urgent conditions.



b. REGULATORY REQUIREMENTS.

A complete description of the facilities must be filed in accordance with detailed information specified in the rules.

3. SUBMISSION REQUIREMENTS.

The application for a permit shall contain, but is not limited to detailed information on the following, depending on the type of facility:

- (1) Name of applicant, owner and manager;
- (2) Purpose, estimated cost, and demand for the facility;
- (3) General and alternate site descriptions;
- (4) Environmental information and effect on ecosystems;
- (5) Land use and local controls;
- (6) Water and air quality controls;
- (7) Time schedule;
- (8) Community impact data, forecasts and estimates; and
- (9) Future additions and modifications.
- (10) Additional information may be requested, based on the specific facility for which a permit application is being filed, or which are necessary for the local review committees to assess effects of the proposal.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

- (1) Notification of intent to apply for a permit for an energy conversion facility must be filed at least 6 months before filing an application. A prefiling conference may be held.
- (2) For energy conversion facilities, electric transmission lines with a design of 250 kilovolts or more, and gas or liquid transmission lines, the commission will render a decision within 12 months of the receipt of the initial application. Applications shall be filed not less than 1-year prior to the planned start of construction. The commission will schedule a public hearing within 30 days following receipt of an application and hold the hearing within 30 days after the public notice.

b. REVIEW AND PROCESSING

(1) Within 30 days after filing notification for energy conversion facilities, the commission will designate the affected area and a local review committee. The local review committee will assess the effects, consider alternatives, and report its recommendations on energy conversion facilities to the commission within 7 months after the application has been filed. The commission shall make its decision on the application after the final hearing.

(2) For energy conversion facilities, electric transmission lines with a design of 250 kilovolts or more, and gas or liquid transmission lines, the commission will schedule and serve notice of public hearings within 30 days and an initial public hearing will be held within 30 days of the public notice. Other formal hearings may be scheduled as needed.

The notification and initial hearing schedules are the same for electric transmission lines and associated facilities of 115 to 250 kilovolt design. The commission will render a decision within 6 months of the filing of the original application.

5. OPERATION REQUIREMENTS.

Any facility granted a permit shall be operated and maintained in conformity with the permit, including any terms, conditions, or modifications made a part of the permit. A permit may be revoked or suspended by the commission under certain statutory provisions.

6. FEES.

Minimum filing fee deposit is \$8,000. Filing fee is 1/4 of 1 percent of the first \$100,000,000 of estimated construction cost, not to exceed 1/20 of 1 percent of all additional estimated construction costs. The maximum fee charged may be increased to an amount not to exceed 1/2 of 1 percent of the first \$100,000,000 of

estimated construction cost and may not exceed 1/20 of 1 percent of all additional estimated construction costs of the facility if the commission determines that an environmental impact statement should be prepared.

7. APPEAL PROCESS.

Applicant may make changes in application in order to comply with requirements after denial or return of application by commission within 30 days. Any party to a permit may obtain judicial review in circuit court.

E. ADMINISTERING AGENCY

Executive Secretary  
Public Utilities Commission  
State Capitol Building  
Pierre, SD 57501

(605) 773-3201

FEDERAL COUNTERPART

Federal Energy Regulatory  
Commission  
825 N. Capitol Street, NE  
Washington, D.C. 20426

(202) 357-8055

## CHAPTER 4.2

### LAND USE

#### INTRODUCTION

The State Planning Bureau serves as an information and planning data source to the governor, other State agencies, local governments and private citizens on request. The bureau does not serve in the capacity of a State land use regulatory agency.

**CHAPTER 4.3**  
**FLOOD PLAIN MANAGEMENT**

**INTRODUCTION**

There are no State regulations for flood plain management. Municipalities and counties, by State enabling legislation, may adopt resolutions or ordinances controlling growth in flood plain areas (see Chapter 7.1), and through construction may be regulated in flood plain areas by building permit regulations .

**AUTHORIZING STATUTE**

Planning and Zoning Act, SDCL 11-1, 11-1A, 11-2, 11-3, 11-4, 11-6.

## SECTION 5.0

# ENVIRONMENTAL QUALITY MANAGEMENT

## **CHAPTER 5.1**

### **AIR QUALITY**

#### **INTRODUCTION**

The South Dakota Codified Law, through the air quality program of the Department of Water and Natural Resources, provides for the control of emissions into the ambient air and is intended to protect plant and animal life, as well as human health.

#### **A. NAME OF PERMIT**

Permit to Operate.

#### **B. STATUTORY AUTHORITY**

South Dakota Codified Law SDCL 34A-1-21.

#### **C. TITLE OF REGULATION**

Administrative Rule of South Dakota 44:10:01.

#### **D. SUMMARY OF PERMIT PROCESS**

##### **1. APPLICABILITY.**

Permits are required to construct and to operate a facility which may cause the emission of an air contaminant into the ambient air.

##### **2. a. GENERAL REQUIREMENTS.**

Application for permits shall be made on forms provided by the air quality program.

##### **b. REGULATORY REQUIREMENTS.**

Any facility which is constructed or operated that will be a source of air contaminants is required to obtain a permit prior to such construction or operation.

##### **3. SUBMISSION REQUIREMENTS.**

- a. Copies of plans and specifications,
- b. Description of operation and process,
- c. Amount and types of fuel used and heat input rating,
- d. Amounts and types of emissions, and

- e. Air pollution control devices.
- f. Applicant may be required to provide computer modelling and to hire a consulting firm to analyze emissions.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Construction permit requires a minimum of 2 weeks for department review. A large source qualifying for a joint federal review - PSD permit may require up to 6 months. If stack testing is required, facility source may operate from 60 to 180 days before testing, depending on the source and the applicable regulation.

b. PUBLIC NOTIFICATION, HEARINGS.

Operating permit application requires 30 day public comment period. Following review of a complete application, a 30 day public comment period is provided prior to issuing a permit for construction. The same 30 day comment period applies for an operating permit.

5. OPERATIONS REQUIREMENTS.

Emissions controls must be maintained continually. Other requirements depend on source.

6. FEES.

None

7. APPEAL PROCESS.

Permit denial may be appealed to the board of minerals and environment, with a 20 day waiting period for contested case hearing.

E. ADMINISTERING AGENCY

Air Quality Program  
South Dakota Department of  
Water and Natural Resources  
413 Foss Building  
Pierre, SD 57501  
(605) 773-3329

FEDERAL COUNTERPART

U.S. Environmental Protection  
Agency  
Lincoln Tower Building  
1860 Lincoln Street  
Denver, CO 80203  
(303) 837-2224



## **CHAPTER 5.2**

### **WATER QUALITY STANDARDS AND REGULATIONS**

#### **INTRODUCTION**

This permitting process, administered by the Department of Agriculture, Division of Conservation, is for irrigation purposes. In addition a water right is required from the Board of Water Management.

**A. NAME OF PERMIT**

Soil/Water Compatibility Permit

**B. STATUTORY AUTHORITY**

South Dakota Codified Law SDCL 46.5-6.2 through 46.5-6.8

**C. TITLE OF REGULATION**

Department of Agriculture ARSD 12:08

**D. SUMMARY OF PERMIT PROCESS**

**1. APPLICABILITY.**

Water quality and land compatibility for irrigation purposes.

**2. a. GENERAL REQUIREMENTS.**

Permit application, a water and soil survey, and a permit from the State Conservation Commission. Copies of the soil/water compatibility permit must be filed with the county register of deeds.

**b. REGULATORY REQUIREMENTS.**

Water quality and land intended for irrigation must be compatible to preserve future productivity of the land.

**3. SUBMISSION REQUIREMENTS.**

Soil/water compatibility permit application Form WI. #1; a ground water sample submitted to the Water Quality Laboratory, Water Resources Research Institute South Dakota State University, Brookings SD 57007; soil survey information from the local

conservation district, soil conservation service, or a professional soil classifier.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Permit granted approximately 1 month from time application and samples are submitted to water quality laboratory.

b. PUBLIC NOTIFICATION, HEARINGS.

None.

c. REVIEW AND PROCESSING TIME.

Laboratory analysis - 1 week.

Division of conservation research and process for water and soil compatibility - 1 week.

State conservation commission review and final action on application - approximately 2 weeks. (The commission meets once a month.)

5. OPERATION REQUIREMENTS.

Soils must not exceed maximum allowable limits for electrical conductivity and exchangeable sodium percentage.

6. FEES.

None

7. APPEAL PROCESS.

Applicant has right of appeal as established by the Administrative Procedures Act.

E. ADMINISTERING AGENCY

Division of Conservation  
South Dakota Department of  
Agriculture  
Anderson Building  
Pierre, SD 57501

(605) 773-3259

FEDERAL COUNTERPART

NONE

## **CHAPTER 5.3**

### **SURFACE WATER QUALITY STANDARDS**

#### **INTRODUCTION**

The provisions of this chapter are to certify that National Pollutant Discharge Elimination System (NPDES) Permits and 404 Dredge and Fill Permits are in compliance with the State surface water quality standards. The State does not have a permit system as such.

**A. NAME OF APPROVAL**

NPDES Plan Review.

**B. STATUTORY AUTHORITY**

South Dakota Codified Laws, SCL 34A-2-10, 34A-2-11, 34A-2-93.

**C. TITLE OF REGULATION**

Administrative Rule of South Dakota, ARSD 74:03:02 through 74:03:04.

**D. SUMMARY OF APPROVAL PROCESS**

**1. APPLICABILITY.**

To designate beneficial uses of all surface water.

**2. a. GENERAL REQUIREMENTS.**

To establish water quality standards to protect designated beneficial uses.

**b. REGULATORY REQUIREMENTS.**

Enforceable as such and to certify that National Pollutant Discharge Elimination System (NPDES) permits and 404 Dredge and Fill permits are in compliance with State surface water quality standards.

**3. SUBMISSION REQUIREMENTS.**

Applications are not required under these regulations except as noted in ARSD 74:03:02:16 which allows variances of toxic materials standards to be granted for the purposes of aquatic nuisance control.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Reviewed to ensure compliance, approximately 30 days.

b. PUBLIC NOTIFICATION, HEARINGS.

None.

c. REVIEW AND PROCESSING TIME.

Applicant is notified of compliance within 30 days.

5. OPERATION REQUIREMENTS.

Requirements, as specified in NPDES or 404 permits, consist of effluent limitations and/or best management practices.

6. FEES.

None.

7. APPEAL PROCESS.

Administrative Procedure Act, SDCL Chapter 1-26,  
SDCL 34A-2-60.

**D. ADMINISTERING AGENCY**

Office of Water Quality  
South Dakota Department of  
Water and Natural Resources  
413 Foss Building  
Pierre, SD 57501

(605) 773-3351

**FEDERAL COUNTERPART**

U.S. Environmental Protection  
Agency  
Lincoln Tower Building  
1860 Lincoln Street  
Denver, CO 80203

(303) 837-2224

U.S. Corps of Engineers  
Omaha District  
Permits Branch  
P. O. Box 5  
Omaha, NE 68101

(402) 221-4133 or 4129

## CHAPTER 5.4 PUBLIC WATER SUPPLY

### INTRODUCTION

The public water supply regulations are administered by the State Department of Water and Natural Resources.

**A. NAME OF PERMIT**

Engineering plans and specifications review.

**B. STATUTORY AUTHORITY**

South Dakota Codified Law, SDCL 34A-2-12, 34A-2-29.

**C. TITLE OF REGULATION**

Department of Water and Natural Resources ARSD 34:04:08.

**D. SUMMARY OF APPROVAL PROCESS**

1. APPLICABILITY.

Provides standards for construction of all public water supplies.

2. a. GENERAL REQUIREMENTS.

Department approval of engineering plans and specifications is required prior to construction, installation, or modification of public water supplies.

b. REGULATORY REQUIREMENTS.

Allows establishment of minimum design standards for public water supply.

3. SUBMISSION REQUIREMENTS.

An application must contain facility name, location, water source, copies of plans, specifications, design data, and other information covering the proposed project, and carry the seal or certificate of the South Dakota professional engineer designing the facility.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The department will complete application review within 30 days.

b. PUBLIC NOTIFICATION, HEARINGS.

None.

c. REVIEW AND PROCESSING TIME.

Technical review is carried out within 30 days. Approval, conditional approval, or disapproval results.

5. OPERATION REQUIREMENTS.

Applicant must construct the facility in compliance with approved design. Operator must be state certified if the water supply serves 500 or more people or is a complex system, as determined by the department.

6. FEES.

None.

7. APPEAL PROCESS.

None.

**E. ADMINISTERING AGENCY**

South Dakota Department of  
Water and Natural Resources  
413 Foss Building  
Pierre, SD 57501

(605) 773-3754

**FEDERAL COUNTERPART**

U.S. Environmental Protection  
Agency  
Lincoln Tower Building  
1860 Lincoln Street  
Denver, CO 80203

(303) 837-2224

## **CHAPTER 5.5**

### **WATER RIGHTS**

#### **INTRODUCTION**

The Water Management Board within the State Department of Water and Natural Resources has the general supervision of the waters of the State, including the measurement, appropriation, and distribution.

#### **A. NAME OF APPROVAL**

Application for Water Right.

#### **B. STATUTORY AUTHORITY**

Water Laws, State of South Dakota, SDCL 1-40-15 through 1-40-19; 43-17-20 through 43-17-26; 46-1 through 46-10.

#### **C. TITLE OF REGULATION**

Rules of the Water Management Board, ARSD 52:01:01.

#### **D. SUMMARY OF APPROVAL PROCESS**

##### **1. APPLICABILITY.**

The regulatory requirements govern the appropriation and use of state water except for vested rights (riparian owner on or before March 2, 1955), and reasonable domestic use.

##### **2. a. GENERAL REQUIREMENTS.**

An application for a permit to appropriate water must be filed in duplicate with the water management board. Applications include appropriation, future use, change of diversion, additional diversion, change in acreage, or additional acreage, including well and dam locations.

##### **b. REGULATORY REQUIREMENTS.**

The rules of the board set forth in detail the basis of diversion criteria and submittal requirements. Application approval is set forth in the rules for temporary or appropriate water rights. The board may cancel invalid water rights based on lack of construction, abandonment, or nonuse of water. Supplemental

information is required for wells, dugouts, or water storage dams.

3. SUBMISSION REQUIREMENTS.

Application for a water right is filed on forms provided by the Water Management Board together with appropriate location maps, water supply source, diversion point, use to be made of the water, construction data, estimated costs, and proper fees.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Proof of publication shall be filed with the board within 60 days from its instructions to make publication, and at least 4 days prior to the board meeting.

b. PUBLIC NOTIFICATION, HEARINGS

Notice will be prepared by the Water Management Board staff upon receipt of a complete application. Copies will be sent to an official newspaper in the county where the water is being appropriated once each week for at least 2 consecutive weeks, and to the applicant. The board shall hold a hearing at which interested parties may be heard.

c. REVIEW AND PROCESSING TIME.

The chief engineer of the Water Rights Division may issue the permit on behalf of the board following determination there is unappropriated water available for the benefit of the applicant.

5. OPERATION REQUIREMENT.

The permit constitutes authority for the applicant to proceed with the construction of the works and to apply the water to beneficial use as specified in the permit. Diligent prosecution of construction is required by law (SDCL 46-5-25). The board shall issue its certificate of completion after inspection of the work, setting forth actual capacity and water rights limitations.





2nd 60 acres	75.00
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OR

Fees for 160 acres	\$ 250.00
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Contact the administering agency to determine amount based on acre-feet/year.

Applicant may appeal the board's action to the circuit court, as provided by the Water Law, SDCL 46-5-23, within 60 days of the board's decision and under the Administrative Procedures Act, SDCL 1-26. Otherwise, the decision is final.

## FEDERAL COUNTERPART

Water Right Division  
Department of Water and  
Natural Resources  
Joe Foss Building  
Pierre, SD 57501

NONE

(605) 773-3352

## **CHAPTER 5.6**

### **SOLID WASTE MANAGEMENT**

#### **INTRODUCTION**

The State Department of Water and Natural Resources reviews applications for solid waste management and forwards their recommendations to the Board of Minerals and Environment prior to approval or denial of a permit.

**A. NAME OF PERMIT**

Permit to Operate a Solid Waste Disposal Site.

**B. STATUTORY AUTHORITY**

South Dakota Codified Law SDCL 34A-6

**C. TITLE OF REGULATION**

Administrative Rule of South Dakota 44:11

**D. SUMMARY OF PERMIT PROCESS**

**1. APPLICABILITY.**

To regulate and control the collection, transportation, storage processing, resource recovery, and disposal of solid waste in a manner that will protect the public health and safety, conserve natural resources, enhance the beauty and quality of the environment, prevent air pollution and water pollution, prevent the spread of disease, and prevent the creation of nuisances.

**2. a. GENERAL REQUIREMENTS.**

Site location, construction, operation, compliance deadlines and maintenance of the disposal or disposal process. Conditional permits are required when existing regulations are inadequate to ensure compliance, such as areas of low population density, composting facilities, transfer stations, storage facilities, resource conservation/recovery, surface impoundment, land spreading, and rubble or processing facilities. Require county and municipal plans.

b. REGULATORY REQUIREMENTS.

Appropriate plans and specifications for disposal sites.

3. SUBMISSION REQUIREMENTS.

An application must include site location and legal description, land owner and site operator, land use, ground water, soil, and geologic data, topographic map, aerial photograph, and operational plan.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The solid waste program will make a tentative decision within 30 days after submittal of complete application.

b. PUBLIC NOTIFICATION HEARING.

Notice of tentative decision shall be published in newspaper in the county containing proposed facility.

c. REVIEW AND PROCESSING TIME.

The tentative decision will become final and permit approved unless a petition disputing recommendation or a request for a contested case hearing is received no later than 45 days after notification.

5. OPERATION REQUIREMENTS.

Minimum management practices must be maintained. Monitoring of water, soil, methane gas, and air quality may be required, including test wells. The department shall be notified of the closing or abandonment of a disposal site.

6. FEES.

None.

7. APPEAL PROCESS.

Person contesting approval or denial of permit shall submit petition within 45 days of Department of Water and Natural Resources notification. A hearing shall be held within 10 to 30 days after notice period. Appeal from this hearing under the Administrative Procedures Act, SDCL 1-26.

**D. ADMINISTERING AGENCY**

Solid Waste Program  
South Dakota Department of  
Water and Natural Resources  
413 Foss Building  
Pierre, SD 57501

(605) 773-3329

**FEDERAL COUNTERPART**

U.S. Environmental Protection  
Agency  
Lincoln Tower Building  
1860 Lincoln Street  
Denver, CO 80203

(303) 837-2224

## **CHAPTER 5.7**

### **HAZARDOUS/TOXIC WASTE MANAGEMENT**

#### **INTRODUCTION**

Solid waste and hazardous/toxic waste management are provided under the same laws and regulations and are both administered by the Office of Air Quality and Solid Waste, Department of Water and Natural Resources. The requirements for hazardous/toxic waste are in addition to the requirements for solid waste (Chapter 5.4).

#### **A. NAME OF PERMIT**

Hazardous Waste Facility Permit

#### **B. STATUTORY AUTHORITY**

South Dakota Codified Law SDCL 34A-6-8

#### **C. TITLE OF REGULATION**

Administrative Rule of South Dakota 44:11:04:04 and 44:15

#### **D. SUMMARY OF PERMIT PROCESS**

##### **1. APPLICABILITY.**

Same as solid waste regulations unless otherwise stated. (See Chapter 5.4, Solid Waste Management.)

##### **2. a. GENERAL REQUIREMENTS.**

Hazardous and toxic wastes shall not be placed in any container for collection, transport, processing, storage, or disposal until the department of water and natural resources has approved the system for tracing and documenting the method and location of storage, transport, processing, storage, or disposal, as appropriate.

##### **b. REGULATORY REQUIREMENTS.**

Approval shall be obtained prior to acceptance of any hazardous or toxic waste at a landfill. Special arrangements are required.

3. SUBMISSION REQUIREMENTS.

An application must include site location and legal description, land owner and site operator, land use, ground water, soil, and geologic data, topographic map, aerial photograph, and operational plan.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The solid waste program will make a tentative decision within 30 days after submittal of complete application.

b. PUBLIC NOTIFICATION HEARING.

Notice of tentative decision shall be published in newspaper in the county containing proposed facility.

c. REVIEW AND PROCESSING TIME.

The tentative decision will become final and permit approved unless a petition disputing recommendation or a request for a contested case hearing is received no later than 45 days after notification.

5. OPERATING REQUIREMENTS.

A daily written log listing types, quantities, sources, and special provisions used for disposal of hazardous waste shall be kept for inspection. The department of water and natural resources shall be notified of the closing or abandonment of a disposal site.

6. FEES.

None.

7. APPEAL PROCESS.

Person contesting approval or denial of permit shall submit petition within 45 days of department of water and natural resources notification. A hearing shall be held within 10 to 30 days after notice period. Appeal from this hearing under the Administrative Procedures Act, SDCL 1-26.

**E. ADMINISTERING AGENCY**

Solid Waste Program  
Dakota Department of  
Water and Natural Resources  
413 Foss Building  
Pierre, SD 57501

(605) 773-3329

**FEDERAL COUNTERPART**

U.S. Environmental Protection South  
Agency  
Lincoln Tower Building  
1860 Lincoln Street  
Denver, CO 80203

(303) 837-2224

## **CHAPTER 5.8**

### **NOISE REGULATIONS**

The South Dakota Codified Laws do not contain specific regulation authorization for noise control as such. Noise may be included as a factor in other environmental quality review and approval considerations.



## SECTION 6.0

### SOCIAL/ECOLOGICAL PRESERVATION



## **CHAPTER 6.I**

### **RARE, THREATENED, AND ENDANGERED SPECIES**

#### **INTRODUCTION**

The wildlife/mineral development coordinator in the Department of Game, Fish and Parks administers the activities outlined below to allow resource development which would be compatible with protected wildlife species and without compromising their safety.

**A. NAME OF APPROVAL**

Wildlife Survey/Mineral Development Form and Guidelines

**B. STATUTORY AUTHORITY**

South Dakota Codified Law, SDCL 41; SDCL 34A-8; SDCL 45-6A.

**C. TITLE OF REGULATION**

Administrative Rules of South Dakota Surface Mining Land Reclamation regulations 12:04:07:06.

**D. SUMMARY OF APPROVAL PROCESS**

**1. APPLICABILITY.**

Rare, threatened and endangered species and energy resource development.

**2. a. GENERAL REQUIREMENTS.**

Authorization from the department of game, fish and parks prior to energy resource permit issuance.

**b. REGULATORY REQUIREMENTS.**

To protect wildlife and wildlife habitat from real and potential mineral development where such development could harm or destroy wildlife or habitat.

**3. SUBMISSION REQUIREMENTS.**

A letter to department of game, fish and parks identifying scope of work including: mineral to be mined or explored for, location on topographic map, method of extraction or exploration. A wildlife

inventory to identify any potential problems is required prior to issuing a permit. Subsequent studies or surveys may be required by the department.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Decision by department within 30 days after receipt of letter from applicant identifying scope of work prior to on-site survey. If required by department, a final report including map is to be provided by applicant within 30 days after notification.

b. PUBLIC NOTIFICATION, HEARINGS.

None.

c. REVIEW AND PROCESSING TIME.

Verbal approval may be given following on-site, pre-wildlife survey if no wildlife problem exists. Written confirmation, usually within 3 days, of approval and/or problems to be addressed with solution, or need for further wildlife survey. If an endangered, threatened, or rare (a unique and protected) species resides in permit area, or immediate vicinity, applicant will be required to make department-approved survey, by qualified personnel.

5. OPERATION REQUIREMENTS.

Applicant must comply with recommendations and restrictions relative to wildlife problems associated with operations. Initial surveys designed to reveal potential wildlife problems and further studies designed to monitor the operations effects on wildlife and/or wildlife habitat. Annual operating plan. Notice to the department of wildlife of any problems found after project activity is underway.

6. FEES.

\$16 per hour for wildlife survey, plus \$ .20 per mile if State vehicle is used.

7. APPEAL PROCESS.

As provided by the Administrative Procedures Act, SDCL Chapter 1-26.

E. ADMINISTERING AGENCY

Wildlife/Mineral  
Development Coordinator  
South Dakota Department of  
Game, Fish and Parks  
3305 West South Street  
Rapid City, SD 57701

(605) 394-2391

FEDERAL COUNTERPART

U.S. Fish and Wildlife Service  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

(303) 234-2209

## CHAPTER 6.2 ARCHAEOLOGICAL AND HISTORICAL

### INTRODUCTION AND APPROVAL PROCESS

The Office of Cultural Preservation is charged with the protection of historical and cultural properties through two programs: The Historical Preservation Center in Vermillion, S.D. and the Archaeological Research Center in Ft. Meade, S.D. The State Archaeologist is responsible for review of such properties and comments on all state mining permit applications. (See Chapters 3.1, 3.2, and 3.3.) The State Historic Preservation Officer will also need to comment on mining projects on federal land. A clearance letter is issued by the state archaeologist after establishing that no archaeological sites exist within the mining permit application area. Should archaeological sites exist, the State Archaeologist will make recommendations for avoidance, mitigation or similar measures to the state conservation commission. A literature search by the State Archaeologist cost \$10.00/hr. for staff time. There is no charge for use of records at the Archaeological Research Center for those who wish to conduct their own records searches.

#### ADMINISTERING AGENCY

State Archaeologist  
Archaeological Research Center  
P. O. Box 152  
Fort Meade, SD 57741

(606) 347-3652

and

State Historic Preservation Officer  
State Historical Preservation Center  
University of South Dakota  
Vermillion, SD 57069

(605) 677-5314

#### FEDERAL COUNTERPART

Interagency Archaeological Services  
P. O. Box 25387  
Denver Federal Center  
Denver, CO 80225

(303) 234-2560

Advisory Council on  
Historic Preservation  
1522 K Street, N.W. Suite 530,  
Washington, D.C. 20005

(202) 254-3974

## **CHAPTER 6.3**

### **WETLANDS**

The State does not have applicable statutes although federal U.S. Army Corps of Engineers' dredge and fill requirements under PL 95-217 are applicable (see Chapter 5.3).

## SECTION 7.0

### LOCAL REGULATORY POLICY



**CHAPTER 7.1**  
**LOCAL GOVERNMENT LAND USE AND**  
**NATURAL RESOURCE CONTROL ENABLING LAWS**

**INTRODUCTION**

Municipal and county enabling legislation as a regulatory function is contained in general law for land use planning, zoning, and subdivision regulation.

**A. NAME OF APPROVAL**

Local Development Regulations

**B. STATUTORY AUTHORITY**

County planning and zoning, SDCL 11-2; Platting of townsites, additions and subdivisions, SDCL 11-3; Municipal planning and zoning, SDCL 11-4; Comprehensive city planning, SDCL 11-6; County and municipal housing and redevelopment, SDCL 11-7; Urban renewal, SDCL 11-8.

**C. TITLE OF REGULATION**

Local jurisdictions adopt ordinances, regulations and resolutions to carry out land use and natural resource controls.

**D. SUMMARY OF APPROVAL PROCESS**

**1. REGULATORY REQUIREMENTS.**

The planning and zoning laws are designed to allow local jurisdictions the opportunity to manage growth at the local level.

**2. SUBMISSION REQUIREMENTS.**

Permits are generally granted unless proposed land use is inconsistent with adopted local plans. If the developer wishes to continue with a proposal, a variance may be requested.

**3. APPEAL PROCESS.**

Procedures for obtaining variances are unique to individual jurisdictions. At least one public hearing is usually held. The process may take at least 30 days to complete.

## E. ADMINISTERING AGENCIES

(See respective county seat or municipality at county listed below.)

Plankinton, Aurora County  
 Huron, Beadle County  
 Martin, Bennett County  
 Tyndall, Bon Homme County  
 Brookings, Brookings County  
 Aberdeen, Brown County  
 Chamberlain, Brule County  
 Canton, Lincoln County  
 Gann Valley, Buffalo County  
 Belle Fourche, Butte County  
 Mound City, Campbell County  
 Lake Andes, Charles Mix County  
 Clark, Clark County  
 Vermillion, Clay County  
 Watertown, Codington County  
 McIntosh, Corson County  
 Custer, Custer County  
 Mitchell, Davison County  
 Webster, Day County  
 Clear Lake, Deuel County  
 Timber Lake, Dewey County  
 Armour, Douglas County  
 Ipswich, Edmunds County  
 Hot Springs, Fall River County  
 Faulkton, Faulk County  
 Milbank, Grant County  
 Burke, Gregory County  
 Philip, Haakon County  
 Hayti, Hamlin County  
 Miller, Hand County  
 Alexandria, Hanson County  
 Buffalo, Harding County  
 Pierre, Hughes County  
 Olivet, Hutchinson County

Highmore, Hyde County  
 Kadoka, Jackson County  
 Wessington Springs, Jerauld County  
 Murdo, Jones County  
 DeSmet, Kingsbury County  
 Madison, Lake County  
 Deadwood, Lawrence County  
 Leola, McPherson County  
 Kennebec, Lyman County  
 Britton, Marshall County  
 Salem, McCook County  
 Sturgis, Meade County  
 White River, Mellette County  
 Howard, Miner County  
 Sioux Falls, Minnehaha County  
 Flandreau, Moody County  
 Rapid City, Pennington County  
 Bison, Perkins County  
 Gettysburg, Potter County  
 Sisseton, Roberts County  
 Wonnsocket, Sanborn County  
 Hot Springs, Shannon County  
 Redfield, Spink County  
 Fort Pierre, Stanley County  
 Onida, Sully County  
 Winner, Todd County  
 Winner, Tripp County  
 Parker, Turner County  
 Elk Point, Union County  
 Selby, Walworth County  
 Yankton, Yankton County  
 Dupree, Ziebach County

## **CHAPTER 7.2**

### **SUB-STATE MANAGEMENT DISTRICTS**

#### **INTRODUCTION**

In 1970 the governor established six multi-county planning and development districts under authority of the Joint Exercise of Governmental Powers Act, SDCL 1-24. All State departments and agencies were directed by the executive order to conform to the districts.

All A-95 grant applications are reviewed by the districts' boards.

#### **ADMINISTERING AGENCY**

South Dakota State Planning Bureau  
Capitol Building  
Pierre, SD 57501  
(605) 773-3661

Planning and Development District I  
P.O. Box 1207  
Watertown, SD 57201  
(605) 886-7724

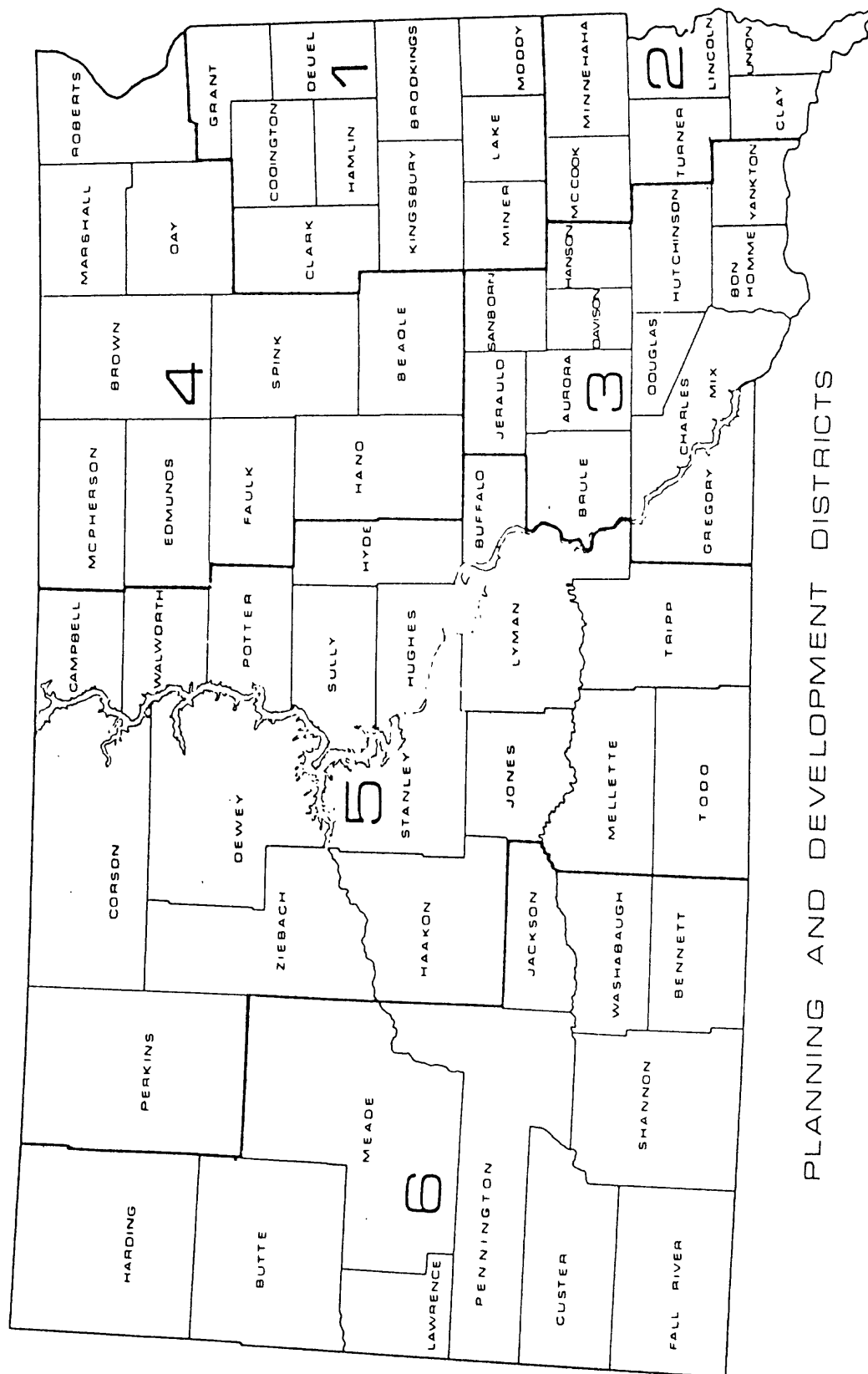
South Eastern Council of Governments II  
P.O. Box 1859  
Sioux Falls, SD 57117  
(605) 339-6515

Planning and Development District III  
Yankton County Courthouse  
Box 687  
Yankton, SD 57078  
(605) 665-4408

Planning and Development District IV  
615 S. Main  
Aberdeen, SD 57401  
(605) 229-4740

Planning and Development District V  
P.O. Box 640  
Pierre, SD 57501  
(605) 224-1623

Sixth District Council of Local Governments VI  
P.O. Box 1586  
Rapid City SD 57709  
(605) 394-2681



# PLANNING AND DEVELOPMENT DISTRICTS