

REPORT OF THE ATTORNEY GENERAL
ON THE
STATUS OF OPEN GOVERNMENT IN SOUTH DAKOTA

APPENDIX F

AGRICULTURE STATUTES

JUNE 30, 2007

STATUTE	LANGUAGE
SDCL 40-3-15	Animal Industry Bulletins "May be distributed from time to time by the Board."
SDCL 40-3-22	Annual Animal Industry Board Report "Shall be published by the State of South Dakota."
SDCL 40-3-27	Any program developed for animal identification "shall provide for confidentiality of identification of records."
SDCL 40-5-7	For animal diseases, the Animal Industry Board "may keep such reports confidential, except for those reports concerning diseases that are specifically regulated for mandatory control and eradication to protect the public health, other livestock, or wildlife."
SDCL 40-5-10	Orders of the Animal Industry Board "shall be in writing."
SDCL 40-5-11 and 40-5-12	Emergency quarantine orders are to be published.
SDCL 40-6-3	Certificates of health are to be "mailed to the Animal Industry Board."
SDCL 40-6-4	Notice must be given to the Animal Industry Board when cattle are brought into the state with out a certificate of health.
SDCL 40-6-12	Meat inspectors "shall report postmortem findings of tubercular lesions in slaughtered animals to the office of the State Veterinarian."
SDCL 40-6-17	Upon the "filing of a protest" animals may be examined by veterinarians.
SDCL 40-7-8	The Animal Industry Board shall provide notice of testing for brucellosis, which "shall be posted at the courthouse for the county and published in all official newspapers."
SDCL 40-7-9.1	The State veterinarian "shall notify" the owner or agister of brucellosis.
SDCL 40-7-25	The Board shall "serve a written notice upon the owner" for animals infected with brucellosis.
SDCL 40-8-3	For exposure to scabies the owner "shall immediately report" to the Animal Industry Board or USDA by "registered or certified letter, telephone or telegram."
SDCL 40-9A-11	The State veterinarian "may serve public notice by publication" requiring owners of swine to confine animals due to pseudo-rabies.

SDCL 40-14-2 and 40-14-3	Certificates of health must be filed with the Animal Industry Board or the USDA or, in the alternative, notice must be provided to the Animal Industry Board if there is no certificate of health.
SDCL 40-15-4, 40-15-5, and 40-15-10	Application to operate livestock agency must be filed and notice published; Surety Bonds must be filed with the Animal Industry Board.
SDCL 40-15A-3	Livestock dealers, packers, or packer buyers "shall file annually" an application for license.
SDCL 40-15A-5	Livestock dealers, packers, and packer buyers must obtain Surety Bonds and "shall file with the Animal Industry Board."
SDCL 40-15B-7	Packers "shall make available for publication and to the Department of Agriculture a daily report setting forth information regarding prices paid for livestock." The report may not include information regarding the identity of a seller.
SDCL 40-17-2	A person who operates a rendering or pet food processing plant "shall file with the Animal Industry Board an application for a license."
SDCL 40-31-6	Officers of the American Dairy Association of South Dakota must file Performance Bonds.
SDCL 40-31-12	All milk dealers and producers "shall keep a complete and accurate record of all milk subject to assessments" and it "shall be reported to the South Dakota Department of Agriculture."
SDCL 40-31-26	The American Dairy Association "shall have the power and duty to keep an accurate record and account of its dealings which shall be a public record."
SDCL 40-32-10.2	All milk plants "shall submit to the Secretary of Agriculture a list of all such producers who are currently doing business with them and supply the Secretary with sufficient information upon which he shall issue a permit."
SDCL 40-33-7	Dealers purchasing milk at wholesale must file a corporate surety bond with the Department of Agriculture.
SDCL 40-33-9	The Secretary of Agriculture may require milk dealers to file verified statements of business.

SDCL 38-1-19	The Department of Agriculture shall have power to "collect and publish statistics." Such public statistics "shall be the official agricultural statistics of the State.
SDCL 38-1-21	The Department of Agriculture "shall have authority to gather and disseminate timely information concerning supply, demand, prices, and commercial movements of farm products." The Department shall exchange information with USDA and various farm organizations.
SDCL 38-1-23	The Secretary of Agriculture "shall attend to and have supervision of all correspondence relating to immigration and shall try to secure the most effective advertisement of the resources and opportunities of the state."
SDCL 38-1-24	The Secretary of Agriculture "shall prepare, publish, and distribute by mail and otherwise, documents, articles, and advertisements designed to convey information on all matters pertaining to the agricultural, industrial, mining, and other resources and advantages of the State."
SDCL 38-1-33	It "shall be the duty of the Secretary of Agriculture to assemble, compile, and maintain files of statistical data relating to the work and progressive of production and marketing cooperative enterprises." He shall also "carry standard forms and outlines of use and reference in organization work."
SDCL 38-1-42	The Department shall create a "directory of prospective beginning farmers and ranchers" and "directory of available or potentially available farms and ranches."
SDCL 38-6-12	"Data or financial information made or received by the Secretary of Agriculture for the purpose of applications for loans, marketing assistance, agricultural finance counseling, and farm loan mediation are not public records and are exempt from the provisions of SDCL 1-27-1.
SDCL 38-7-13	The Division of Resource Conversation and Forestry "shall keep full and accurate records of all proceedings and of all resolutions, rules, and regulations, and orders issued or adopted."

SDCL 38-7-19	The Division of Resource Conservation and Forestry "shall have the duty and power to disseminate information throughout the state concerning the activities and programs of the conservation districts . . . and to encourage the formation of such districts and areas where organization is desirable."
SDCL 38-7A-4	Conservation districts "shall submit a written report of those shelterbelts which no longer pass certification" to the state conservation commission.
SDCL 38-8-1	Voters "may file a petition with the State Conservation Commission asking that a conservation district be organized."
SDCL 38-8-12	The Division of Resource Conservation and Forestry "shall publish the result" of a referendum on operation of a proposed conservation district.
SDCL 38-8-16 through SDCL 38-8-22	Documents for establishment of conservation districts must be filed with the South Dakota Conservation Commission.
SDCL 38-8-30 and 38-8-34	Petitions for boundary adjustments or for change in the name of districts must be filed with the State Conservation Commission.
SDCL 38-8-48	Supervisors of conservation districts "shall cause a financial report and report of principal activities to be made in accordance with sample forms and rules promulgated by the State Conservation Commission.
SDCL 38-8-90, 38-8-92, 38-8-98 and 38-8-99	Documents pertaining to the dissolution of conservation districts must be filed with the Division of Resource Conservation and Forestry.
SDCL 38-8A-3	The State Conservation Commission "shall develop comprehensive state erosion and sediment control guidelines" with "full opportunity for citizen participation."
SDCL 38-8A-9 and 38-8A-10	Conservation district standards must be "forwarded to" the State Conservation Commission "for review and comment."
SDCL 38-8A-29	Conservation districts "shall file" an itemized annual report showing violations of soil erosion and sediment damage control laws.
SDCL 38-10-13	The Executive Director and Treasurer of the Wheat Commission "shall file with the Commission a fidelity bond executed by a surety company."

SDCL 38-10-18	"The Wheat Commission shall have the power to adopt and devise a program of education and publicity."
SDCL 38-10-21	"All records of the Wheat Commission shall be kept at least three years."
SDCL 38-10-27	Purchasers of wheat "shall render and have on file a report with the Commission" and "shall display the number of bushels of wheat purchased in the preceding quarter and the amount of fee being remitted."
SDCL 38-10-30	Use of identification numbers in lieu of the name of the wheat grower is approved. Such approval being in consideration that the commodity credit corporation will allow authorized officials of the State of South Dakota to have access at all reasonable times to county agricultural stabilization and conservation offices showing the names of growers.
SDCL 38-10-34	Producers subject to wheat promotion fee may "apply to the Wheat Commission for a refund of the fee" and, in doing so must file an application and a record of the invoices delivered by the purchaser to the grower.
SDCL 38-10-39	The Wheat Commission "shall annually submit a financial report and informational budget to the Secretary of Agriculture."
SDCL 38-12A-13	Information obtained from applications and records of seed producers "shall be for the sole use of the Secretary" in carrying out the provisions of the seed standards and labeling regulatory requirements.
SDCL 38-12A-14	Persons seeking to sell seed must provide a signed application for seed permit.
SDCL 38-12A-22 thru 38-12A-24, 38-12A-28, 38-12A-29	Consumers who file signed complaints against seed producers may be referred to an arbitration committee which will, in turn, report its findings and recommendations to the Secretary and the parties.
SDCL 38-18-3	Bee keepers "shall file" an application registering bees and each apiary with the Secretary. Landowner permission slips must also be filed with the Secretary.
SDCL 38-18-4	Applicants for transporting bees or bee equipment "shall file with the Secretary an application for an entrance permit."

SDCL 38-18-15	"If an apiary is inspected, a certificate of inspection shall be issued.
SDCL 38-18-16	The Secretary "shall issue a written order" to bee keepers when bees are to be treated, destroyed, or removed due to pest infestation.
SDCL 38-18-20	If the Secretary finds that unsanitary conditions exist in the operation of a honey-house, the Secretary "shall order" the operator of the honey-house, in writing, to place the honey-house in a sanitary condition.
SDCL 38-18-25	The Secretary of Agriculture may seize bees that are brought into the state without an entrance permit. A "notice of Seizure" must be served or published.
SDCL 38-18-26	Certificates of Inspection issued by the South Dakota Secretary of Agriculture must accompany the sales of bees.
SDCL 38-18-37	The Department "shall develop and disseminate information and instruction relating to the purpose of the honey assessment and to this purpose shall cooperate with the state and federal agencies and private businesses engaged in the purchase of honey."
SDCL 38-19-2.1	Persons distributing fertilizer must "obtain a distribution license from the Secretary of Agriculture."
SDCL 38-19-12	Distributors of commercial fertilizer "shall file with the Secretary of Agriculture on forms furnished by the Secretary an annual statement" showing tons of fertilizer distributed in the State. However, "no information furnished under this section may be disclosed by the Secretary or anyone having access to tonnage reports if the disclosure will in any way divulge any part of the operations of a licensee."
SDCL 38-19-28	In developing a list of mixed fertilizers adaptable to the agricultural needs of the State "it shall be the duty of the Secretary with the corporation of the Agricultural experiment station and the extension service to give wide publicity to such list of adapted grades of mixed fertilizers so the consumers may profit by this information."

SDCL 38-19-30.1	The Secretary of Agriculture "may require" a licensed applicant or registrant to furnish proof of claims made "for commercial fertilizer."
SDCL 38-19-34	The Secretary of Agriculture "shall have authority to publish analyses" of "commercial fertilizer products."
SDCL 38-19-35	The Secretary "shall publish at least annually" information concerning the sales of commercial fertilizer together with such data on their production and use as he may consider advisable. However, "no disclosure shall be made of the operations of any person."
SDCL 38-19-36.2	Bulk commercial fertilizer storage permit applications must be filed.
SDCL 38-19-37.1	License applicants and licensees for commercial fertilizer "shall" furnish copies of labels and labeling of commercial fertilizer.
SDCL 38-19A-4	Soil conditioner products "shall be registered" with the Secretary of Agriculture. Registration must include a copy of labels and advertising literature with the registration request for each soil amendment.
SDCL 38-19A-9	The Secretary of Agriculture "may require proof of claims" for any soil amendment.
SDCL 38-19A-11	Distributors of soil amendments "shall file with the Secretary, on forms furnished by the Secretary, an annual statement" of tonnage sold.
SDCL 38-20A-4	Applicants for pesticide registration "shall file with the Secretary of Agriculture an application for registration of the pesticide."
SDCL 38-20A-8	For pesticide registration, the Secretary "may require submission of the complete formula of any pesticide."
SDCL 38-20A-15	It is a Class 1 misdemeanor for a person to disclose confidential pesticide formula.
SDCL 38-20A-52	The Secretary of Agriculture must <u>publish</u> notice of all judgments issued against pesticide dealers.
SDCL 38-21-15.1	Persons operating bulk pesticide storage facilities must submit an application for a permit and appropriate plans and specifications for construction and approval of the facility.
SDCL 38-21-17	Persons applying pesticide to the lands of another must apply for a pesticide applicator's license.

SDCL 38-21-21	The Secretary of Agriculture "shall inform the applicant in writing "of reasons for denial of a pesticide permit.
SDCL 38-21-33.1	Pesticide dealers must obtain a license from the Department of Agriculture.
SDCL 38-21-46	Persons claiming damages from pesticide use "shall file with the Secretary of Agriculture on a form prescribed by the Secretary a written statement within 30-days after the date that the damages occurred."
SDCL 38-21-47	The Secretary of Agriculture shall inspect pesticide damage complaints and "shall make such information available to the person claiming damage and to the person who is alleged to have caused the damage."
SDCL 38-22-9	The Department of Agriculture shall publish a list of state weeds and pests.
SDCL 38-22-17	Notice of weed or pest infestation shall be served and filed in the Office of the County Auditor.
SDCL 38-22-18	Notice of weed or pest infestation shall be given on non-resident land-owner by posting the notice at the court-house in the county where the land is located or by personal service on the owner outside the state.
SDCL 38-23-1	The Department of Agriculture "shall collect, preserve, publish, and disseminate information pertaining to horticulture and to promote tree planting, fruit growing, and floriculture in the state.
SDCL 38-24A-7	The Secretary of Agriculture may extend a quarantine of infested agricultural products "upon publication of a notice to that affect in such news-papers and the quarantine area.
SDCL 38-24A-12	The Secretary of Agriculture may seize infested agricultural products "upon giving notice to the owner or his representative" by personal service or certified mail.
SDCL 38-24A-13	Notice of quarantine of agriculture products may be made by newspaper, radio, or other news media.
SDCL 38-24A-21	Persons shipping plants into another state or country may apply for a certificate of plant inspection, upon "receipt of the application" The Department may comply with the request and issue a certificate.

SDCL 38-24B-6 thru 38-24B-10, and 38-24B-12	Nurserymen must make application for and receive certificates of inspection for transportation of nursery stock.
SDCL 38-24B-22 thru 38-24B-24	Nurserymen may be required to furnish the Department of Agriculture with copies of order forms, contracts, invoices, agreements, and lists of customers. This information "is for the sole use of the Secretary of Agriculture."
SDCL 38-27-13	Any "first purchaser of sunflowers, safflowers, canola, or flax shall file an application or affidavit with the oil seeds council on forms prescribed and furnished by the council."
SDCL 38-27-14	The first purchaser "shall report to the council stating the quantity of sun-flowers, safflowers, canola, or flax received by him."
SDCL 38-27-16	Any grower may "make application" to the Oilseeds Council for refund.
SDCL 38-27-17	The Oilseeds Council "shall develop and disseminate information and instructions relating the purpose of the oil seeds assessment and the manner in which refunds may be claimed."
SDCL 38-27-18	Certification of referendum result of the oil seeds, assessment must be submitted to the Oilseeds Council and the Secretary of Agriculture.
SDCL 38-29-10	Any "first purchaser of soybeans shall file an application with the Soybean Research and Promotion Council on forms prescribed and furnished by the Council."
SDCL 38-29-11	Every "first purchaser shall report to the council stating the quantity of soybeans received by him."
SDCL 38-29-12	Any soybean grower seeking refund of a soybean assessment "may apply to the Soybean Research and Promotion Council for a refund."
SDCL 38-29-13	The Soybean Research and Promotion Council "shall develop and disseminate information and instructions relating to the purpose of the soybean assessment and manner in which refunds may be claimed."
SDCL 38-32-17	Any "first purchaser of corn shall file an application with the [Corn] Council in forms prescribed and furnished by the council which shall contain the name under which the first purchaser has been transacting business within the state, etc."

SDCL 38-32-18	Each first purchaser shall report to the council stating the quantity of corn received by the first purchaser.
SDCL 38-32-21	The council shall "develop and disseminate information and instructions relating to the purpose of the corn assessment and the manner in which refunds may be claimed."
SDCL 38-32-20	Any grower subject to the corn assessment may "make application to the Council for a refund."
SDCL 38-32-23	Candidates for directors of the Corn Utilization Council "may be nominated by a written petition" provided by the council and filed with the council.
SDCL 38-33-8	Each purchaser of swine shall report to the Pork Commission stating the seller and quantity of the swine."
SDCL 38-33-11	The Pork Commission "shall develop and disseminate information and instructions relating to the purpose of the swine assessment and manner in which re-funds may be claimed," etc.
SDCL 39-1-6	The Department of Agriculture may distribute from time to time "bulletins containing standards, definitions, rules, and regulations pertaining to products" regulated by the Department of Agriculture.
SDCL 39-5-15	Meat plants "shall apply to the Secretary of the Animal Industry Board "for inspection services.
SDCL 39-5-33	Meat brokers, animal food manufacturers, wholesalers of carcasses, etc. must "register with" the Secretary of the Animal Industry Board in order to engage in business.
SDCL 39-5-44	Before becoming effective, inspection provisions by the Animal Industry Board must be posted on the official bulletin boards of at least 20 counties in the State of South Dakota and must be published.
SDCL 39-6-7	Persons seeking to sell Grade-A milk "shall make application for a permit to the Secretary of Agriculture."
SDCL 39-6-13	Any person performing field service for a Grade-A processor "shall first obtain a permit therefore from the Secretary of Agriculture by application on a form provided by the Secretary."

SDCL 39-6-19	For municipal milk inspection systems "a written notice of such findings shall be given to the chief administrative officer of the first or second class municipality and a copy of such written notice shall be filed with the city auditor, clerk, or recorder."
SDCL 39-11-4	EGG licenses "shall be issued by the Secretary of Agriculture to persons who apply therefore."
SDCL 39-14-40.1	A person who manufactures commercial feed must first obtain a commercial feed license from the Secretary on forms provided by the Secretary.
SDCL 39-14-41.1	The Secretary "may request from a licensed applicant or a licensee copies of commercial feeds, labels and labeling."
SDCL 39-14-44	Manufacturers of commercial feeds must file an annual tonnage statement.
SDCL 39-14-63 and 39-14-64	The Secretary of Agriculture must provide written notice for inspections of commercial feed manufacturers.
SDCL 39-14-70	Trade secret protection for commercial feed manufacturer's methods, records, formulations or processes.
SDCL 39-14-78	The Secretary of Agriculture "shall publish at least annually information concerning sales of commercial feeds including data on production and use of feeds" provided, that "the information concerning production and use of commercial feeds shall not disclose the operations of any person."
SDCL 39-18-5 and 39-18-6	Persons making application for the registration of an animal remedy must furnish the application, labels, and "statement of claims made" to the Secretary of Agriculture.
SDCL 39-18-43	"The Secretary of Agriculture or any of his agents shall not use or reveal information" which is acquired under the Animal Remedies Regulatory Provisions except for enforcement purposes.
SDCL 39-23-4	The Secretary of Agriculture may promulgate rules including "requirements regarding records which document inspection visits, records which document inventory, and other record keeping requirements necessary to demonstrate compliance" as set forth in the law pertaining to organic food.

SDCL 39-24-5	"Any data or financial information made or received by the Secretary of Agriculture" for purposes of the South Dakota Certified Beef Program are not public record and is exempt from the provisions of SDCL 1-27-1.
SDCL 38-34-12	Each "first purchaser of pulse crops shall file an application or affidavit with the council on forms prescribed and furnished by the council."
SDCL 38-34-13	Each first purchaser "shall report to the council the quantity of pulse crops received by the first purchaser."
SDCL 38-34-19	The pulse council shall develop and disseminate information and instructions relating to the purpose of the pulse crop assessment and manner in which refunds may be claimed.