**74:51:01:61.  Publication of notice of application for water resource enhancement or restoration projects -- Exception for registered pesticides.** The applicant shall publish notice of application for approval of the proposed water resource enhancement or restoration project in one newspaper which serves the affected area. The secretary shall provide the notice and shall approve or select the official newspaper. The notice shall be published at least 10 days before the start of the proposed project. The notice shall include a summary of the proposed activity and the secretary's recommendation. If no comments are received within the 10-day notice period, the secretary shall approve or deny the plan in accordance with the secretary's recommendation as published in the notice. The cost of publication is the responsibility of the applicant.

A water restoration or enhancement project that includes the application of a registered pesticide only is not subject to the notice requirements of this section if all of the following criteria are met:

(1)  The registered pesticide will not be applied within one-half mile of a well or surface intake used as a public water supply source;

(2)  The registered pesticide will be applied only to surface waters of the state that are not designated for the beneficial use of immersion recreation and limited contact recreation; and

(3)  The project will not affect more than 70 percent of the aquatic vegetation existing before the first application as approved by the secretary.

**Source:** 18 SDR 128, effective February 11, 1992; 21 SDR 214, effective June 21, 1996; transferred from § 74:03:02:47.03, July 1, 1996; 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Cross-Reference:** Legal newspapers and publication of notice, SDCL chapter 17-2.