

### **12:56:01:01. Definitions**

(47) "Triple rinse," upon emptying by flushing of containers three times, each time using a volume of the normal diluent equal to approximately 20 percent of the containers' capacity, and adding the rinse liquid to the spray mixture or disposing of it by a method prescribed for the pesticide in chapter 12:56:02;

~~(48) "Under the direct supervision of," application of a pesticide by a competent person acting under the instruction and control of a licensed applicator or a licensed operator, even though the licensed applicator or licensed operator is not physically present at the time and place the pesticide is applied;~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 13 SDR 37, effective October 8, 1986; 18 SDR 49, effective September 15, 1991.

**General Authority:** SDCL [38-21-15](#), [38-21-15.1](#), [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#), [38-21-15.1](#), [38-21-51](#).

**12:56:02:01. Permissible disposal procedures.** Pesticides may be disposed of as follows:

- (1) Using them for the legal purposes originally intended, at the prescribed dosage;
- (2) Returning the pesticides to the manufacturer for potential relabeling, recovery of resources, reprocessing into other materials, or exportation of the pesticide to a country where its use may be legal;
- (3) ~~Following the procedure set forth in § 12:56:02:03.~~ In accordance with the "Storage and Disposal" section of the label for the product being disposed;

(4) Collection by the Department of Agriculture's unusable pesticide disposal program:

(5) If not a hazardous waste, burial in a permitted municipal solid waste landfill, in accordance with state and federal solid waste laws; or

(6) Collection and disposal as a hazardous waste, as provided for pursuant to section 12:56:04.01.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:02:02. Prohibited storage and disposal procedures.** No person may dispose of or store or receive for disposal or storage any pesticide or pesticide container or pesticide container residues as follows:

- (1) So as to cause or allow open dumping of pesticides or pesticide containers;
- (2) So as to cause or allow open burning of pesticides or pesticide containers. ~~However, the open burning by the user of small quantities of combustible containers which do not exceed more than one day's accumulation or more than 50 pounds of combustible containers and which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, beryllium, selenium, or arsenic compounds, is acceptable;~~
- (3) So as to cause or allow water dumping;
- (4) So as to cause or allow pesticides to be stored next to food or other articles intended for consumption by humans or animals.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:02:03. Procedures for disposal of pesticides -- Exceptions.** ~~The procedures in this section shall be followed in the disposal of organic and metallo-organic pesticides, except organic mercury, lead, cadmium, beryllium, selenium, or arsenic compounds.~~

~~———— Metallo-organic pesticides may not be incinerated until after the heavy metals are recovered from the hydrocarbon chain and then shall be incinerated in a pesticide incinerator. Organic pesticides not containing metals shall be incinerated in a pesticide incinerator.~~

~~———— In lieu of incineration, the pesticides may be disposed of by burial in a specially designated landfill. If specially designated landfill facilities are not available, the soil injection method may be used, under direct supervision of an agent of the secretary. If soil injection methods of disposal are not available, chemical methods and procedures may be used to degrade pesticides to forms which are not hazardous to the environment. These procedures shall be performed under the direct supervision of an agent of the secretary.~~

~~———— If adequate disposal methods listed in this section are not available, pesticides shall be stored as prescribed in § 12:56:02:08 until disposal facilities and methods become available.~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:02:04. Procedures for the disposal of organic mercury, lead, cadmium, arsenic, beryllium, selenium, and all inorganic pesticides.** ~~Organic mercury, lead, cadmium, beryllium, selenium, arsenic, and all inorganic pesticides shall be disposed of in the manner set forth in this section.~~

~~—These pesticides may be chemically deactivated by converting them to nonhazardous compounds and the heavy metal resources recovered. However, if chemical deactivation facilities are not available, these pesticides shall be encapsulated and buried in a specially designated landfill. Records sufficient to permit location for retrieval shall be maintained at the landfill site in a manner approved by the South Dakota department of environment and natural resources.~~

~~—If neither of the above options is available, these pesticides shall be placed in containers and stored temporarily until disposal facilities or procedures are available.~~

**Source:** 1 SDR 65, effective March 27, 1975; 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:02:05. Disposal of pesticide containers and residues.** All pesticide containers ~~and their residues~~ which have been triple rinsed shall be disposed of according to one or more of the following procedures:

~~(1) Containers which formerly contained organic mercury, lead, cadmium, beryllium, selenium, or arsenic or inorganic pesticides and which have been triple rinsed and punctured to facilitate drainage shall be disposed of in a sanitary landfill, except that small quantities of combustible containers may be burned as provided by subdivision 12:56:02:02(2) or buried in open fields by the user of the pesticide if the amounts of the containers do not exceed the daily volume limits provided by subdivision 12:56:02:02(2) for open burning; Return to the manufacturer for reuse, recovery of resources or reprocessing into other materials.~~

~~(2) Unrinsed containers which formerly contained organic mercury, lead, cadmium, beryllium, selenium, or arsenic or inorganic pesticides shall be disposed of in a specially designated landfill or incinerated in a pesticide incinerator, except that small quantities of combustible containers may be burned as provided by subdivision 12:56:02:02(2) or buried in open fields by the user of the pesticide if the amounts of the containers do not exceed the daily volume limits provided by subdivision 12:56:02:02(2) for open burning and where light soil texture or subsurface water is not a factor, taking into consideration environmental considerations; In accordance with the "Storage and Disposal" section of the label for the pesticide being disposed;~~

~~(3) Containers which formerly contained other organic pesticides shall be disposed of in the manner provided in subdivision (2) of this section; Collection by the Department of Agriculture's pesticide container recycling program; or~~

~~(4) Containers which formerly contained organic pesticides and metallo-organic pesticides, except organic mercury, lead, cadmium, beryllium, selenium, or arsenic compounds, may be returned to the manufacturer for reconditioning when the manufacturer will accept such containers; Burial in a permitted municipal solid waste landfill, in accordance with state and federal solid waste laws.~~

~~(5) Containers which formerly contained organic pesticides and metallo-organic pesticides, except organic mercury, lead, cadmium, beryllium, selenium, or arsenic compounds and which have been triple rinsed and punctured to facilitate drainage may be crushed and sold for scrap;~~

~~(6) Containers which formerly contained pesticides which have been identified as hazardous wastes by § 74:28:22:01 shall be treated, stored, and disposed of in accordance with the procedures established by the department of environment and natural resources for the treatment, storage, and disposal of hazardous wastes, as specified by § 74:28:25:01.~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-15](#), [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:02:06. Procedures for disposal of pesticide residue.** Residue and rinse liquids which are not added to spray mixtures in the field shall be disposed of in the manner prescribed for each specific type of pesticide as set forth in ~~§§ 12:56:02:03 and 12:56:02:04.~~ 12:56:01.

**Source:** 1 SDR 65, effective March 27, 1975; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-15](#).

**12:56:04:01. Agricultural plant pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides on lands used in the production of agricultural crops, including but not limited to feed grains, soybeans, forage, vegetables, small fruits, tree fruits, and nuts, as well as on grasslands and non-crop agricultural lands must be certified for agricultural plant pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:02. Agricultural animal pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides on animals, including but not limited to beef cattle, dairy cattle, swine, sheep, horses, goats, poultry and other livestock and to places on or in which animals are confined, must be certified for agricultural animal pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:03. Forest pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides in forests, forest nurseries, and forest seed-producing areas

must be certified for forest pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:04. Ornamental and turf pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf must be certified for ornamental and turf pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:05. Seed treatment.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides on seeds must be certified for seed treatment. Licensed applicators in this classification shall be certified and licensed to use any pesticide

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:06. Aquatic pest control.** Commercial applicators using ~~or supervising~~ the use of any restricted-use pesticide purposely applied to standing or running water, excluding commercial applicators engaged in public health-related activities included in § 12:56:06:09 must be certified for aquatic pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:07. Right-of-way pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides in the maintenance of rights-of-way, including but not limited to public roads, electric power lines, pipelines, and railway rights-of-way must be certified for right-of-way pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:08. Industrial, institutional, structural, and health related pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments including but not limited to warehouses, grain

elevators, adjacent structures and areas public or private, and for the protection of stored, processed, or manufactured products must be certified for industrial, institutional, structural, and health-related pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:09. Public health pest control.** Commercial applicators and state, federal or other governmental employees using ~~or supervising the use of~~ restricted-use pesticides in public health programs for the management of control of pests having medical and public health importance must be certified for public health pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:10. Regulatory pest control.** Commercial applicators and state, federal, or other governmental employees using ~~or supervising the use of~~ restricted-use pesticides in the control of regulated pests under state or federal quarantine with the exception of noxious weeds must be certified for regulatory pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:11. Demonstration and research pest control.** Persons who demonstrate to the public the proper use and methods of application of restricted-use pesticides ~~or supervise such a demonstration~~ must be certified for demonstration pest control. Licensed applicators in this classification shall be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:12. Rodent and bird pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides in the control of rodents or birds must be certified for rodent and bird pest control. Licensed applicators in this classification must be certified and licensed to use any pesticide.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:12.01. Predator pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides in control of predators must be certified for predator pest control. Licensed applicators in this classification must be certified and licensed to use any pesticide.

**Source:** 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:12.02. Grain fumigation pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides on stored grain or grain in transit to control pests must be certified for grain fumigation pest control. Licensed applicators in this classification must be certified and licensed to use any pesticide.

**Source:** 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-33](#).

**12:56:04:12.03. Wood preservative pest control.** Commercial applicators using ~~or supervising the use of~~ restricted-use pesticides to control pests that damage or destroy wood must be certified for wood preservative pest control. Licensed applicators in this classification must be certified and licensed to use any pesticide.

**Source:** 12 SDR 96, effective December 8, 1985; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-51](#).

**12:56:05:05.01. Supervision standards for noncertified applicators.**

~~Applicators supervising noncertified applicators shall be currently certified.~~

~~The availability of the certified applicator is directly related to the hazard of the application being made by the noncertified applicator. When the certified applicator is not present, "direct supervision" may include verifiable instruction to the noncertified applicator, including detailed guidance for applying the pesticide properly and provisions for contacting the certified applicator if the certified applicator is needed. When required by the directions for use printed on the registered label of the pesticide being used by the noncertified applicator, the certified applicator shall be physically present.~~

**Source:** 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-18](#).

**12:56:07:02. Availability of records to the department.** ~~Each licensed public operator and licensed applicator shall have all pesticide application records completed and available to the department for inspection at the close of each day.~~

**Source:** 1 SDR 65, effective March 27, 1975; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-24](#).

**12:56:07:03. Records to be kept for three years.** Records of pesticide applications made by each commercial applicator ~~or the applicator's operators~~ must be kept by the applicator for three years from the date of the application of any pesticides. The department must, upon written request, be furnished with a copy of these records, which must include the information required by § 12:56:07:01.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-24](#).

**12:56:07:04. Applicator to make record of application available to customer.** Upon written request, each ~~licensed applicator~~ commercial applicator must provide the customer with a record of each application of pesticide applied to the customer's land.

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-24](#).

**12:56:08:01. Standards for certification of licensed operators.** ~~Applicant for a licensed operator license or for renewal of a licensed operator license shall comply with both chapters 12:56:04 and 12:56:05.~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-27](#), 38-21-29

**12:56:08:04. Licenses not transferable.** ~~A licensed operator's license is not transferable. If an operator changes employers, the operator's license is invalid and must be renewed.~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-27](#), 38-21-29.

**12:56:09:01. Standards for certification of public operators.** ~~All applicants for a public operator license or a renewal of a public operator license shall comply with both chapters 12:56:05 and 12:56:04.~~

**Source:** 1 SDR 65, effective March 27, 1975; 2 SDR 53, effective January 18, 1976; 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL 38-21-28.

**12:56:10:02. License fee for licensed applicator who is a licensed pesticide dealer.** ~~There is no fee charge for a commercial pesticide applicator license to a person who has a current licensed pesticide dealer license.~~

**Source:** 2 SDR 53, effective January 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-34](#).

**12:56:10:05. Licensed dealers selling restricted-use pesticides to uncertified private applicators.** ~~The act of selling a restricted-use pesticide to an uncertified private applicator is prohibited except after the applicator has completed a questionnaire provided by the department to the licensed dealer and the applicator has signed the questionnaire and the licensed dealer has signed the questionnaire affirming that the dealer has discussed any incorrect responses made by the applicator on the questionnaire and is satisfied that the applicator understands the material covered by the questionnaire, the applicator is exempt from the certification as required by §§ 12:56:12:01 and 12:56:12:02.~~

~~———— Licensed pesticide dealers shall submit a copy of each completed questionnaire to the department weekly.~~

**Source:** 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-18](#), [38-21-23](#), [38-21-52](#).

**12:56:12:02. Private applicator certification.** Private applicators shall be certified by completing either a training course approved by the department or a home study course approved by the department. ~~except that from October 21, 1977, to October 21, 1979, an uncertified private applicator is exempt from the certification requirements for a single purchase of a single restricted use pesticide product by completing the questionnaire process as described in § 12:56:10:05. Upon receiving a report from a licensed dealer that an uncertified private applicator has purchased a pesticide under the provisions of § 12:56:10:05, the department shall notify the applicator of the necessity to become certified by attending a training course or completing a home study course before more purchases of restricted use pesticides may be made.~~

**Source:** 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-18](#), [38-21-52](#).

**12:56:12:03. Private applicator certification emergency exemption.** ~~A private applicator who has no current certification may be exempted by the secretary of agriculture from the requirements of certification after October 21, 1979, in an emergency situation, if the emergency is declared by the secretary of agriculture. However, the private applicator receiving such an exemption shall comply with provisions of the single purchase, single use as described in § 12:56:12:02.~~

**Source:** 4 SDR 23, effective October 20, 1977; 12 SDR 128, 12 SDR 154, effective

July 1, 1986.

**General Authority:** SDCL [38-21-51](#).

**Law Implemented:** SDCL [38-21-18](#), [38-21-52](#).

**12:56:13:01.01 Pesticide Tank Anchoring.** Each stationary bulk liquid pesticide container installed after the effective date of these rules with the capacity of 300 gallons or more must either be anchored or elevated to prevent the flotation in the event that the secondary containment unit fills with a liquid. Anchoring may consist of securing the tanks with bolts or cables that are strong enough to prevent tanks from floating or elevating and secure the tanks so the bottom of the tank is above the containment wall or a combination of these approaches.

**Source:**

**General Authority:** SDCL [38-20A-36](#), [38-21-15](#), [38-21-51](#).

**Law Implemented:** SDCL [38-20A-36](#), [38-21-15](#).

**12:56:14:05(6), Record keeping for each pesticide.** Each of your individual establishments that repackage a pesticide product into refillable containers for distribution or sale must maintain all of the records. The establishment must furnish these records for inspection and copying upon request by an employee of EPA or any entity designated by EPA, such as a State, another political subdivision or a Tribe.

(1) For each pesticide product distributed or sold in refillable containers, both of the following records must be maintained for the current operating year and for 3 years after that:

- (2) The written refilling residue removal procedure for the pesticide product.
- (3) The written description of acceptable containers for the pesticide product.

**Source:**

**General Authority:** SDCL [38-20A-36](#), [38-21-15](#), [38-21-51](#).

**Law Implemented:** SDCL [38-20A-36](#), [38-21-15](#).

**12:56:14:05(7), Record Keeping for refilling containers.** Each time a refiller at your establishment repackages a pesticide product into a refillable container and distributes or sells the product, the following records must be generated and maintained for at least 3 years after the date of repackaging:

- (1) The EPA registration number of the pesticide product distributed or sold in the refillable container.
- (2) The date of the repackaging.
- (3) The serial number or other identifying code of the refillable container.

**Source:**

**General Authority:** SDCL [38-20A-36](#), [38-21-15](#), [38-21-51](#).

**Law Implemented:** SDCL [38-20A-36](#), [38-21-15](#).

**12:56:17:02. Operational area containment requirements.** After February 1, 1995, the following requirements for containment apply to those operational areas where operational area containment is required pursuant to § 12:56:17:01:

- (1) Operational area activities must be carried out in a manner that prevents escape of discharges that may result in unreasonable adverse effects on the environment;

(2) Operational area activities must be carried out on an impervious surface that is designed to catch and contain any discharges in the operational area;

(3) The operational area containment must be constructed in accordance with professional engineering practices which include the following:

(a) The material used must be of sufficient thickness and strength to withstand the weight and movement of any equipment that may be placed or parked within the operational area containment;

(b) All seams and cracks must be sealed;

(c) The operational area containment must be constructed of concrete or other materials approved by the secretary prior to construction or installation. If materials other than concrete are used, information must be provided by the applicant to the secretary which includes chemical compatibility, permeability, and physical characteristics of materials proposed to assure operational area containment integrity under conditions of proposed use. A written confirmation of compatibility of synthetic materials must be kept at the operational area or at the nearest local office of the operator;

(d) For liquid pesticides, including container and equipment rinsates, the operational area containment must be curbed or sloped to contain discharges so as to facilitate recovery of discharged materials and to prevent liquids from adjacent surfaces from flowing onto the operational area containment. To prevent unreasonable adverse effects on the environment as defined in SDCL chapter [38-21](#), the operational area containment must be of sufficient capacity and surface area to contain discharges from the single largest container or application system operated or cleaned within the operational area and to prevent spillage onto unprotected areas. ~~A minimum containment capacity of 250 U.S. gallons must be provided;~~

**Source:** 18 SDR 49, effective September 15, 1991; 20 SDR 91, effective December 19, 1993.

**General Authority:** SDCL 38-21-15, 38-21-15.1, 38-21-51.

**Law Implemented:** SDCL 38-21-15, 38-21-15.1.