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SD EForm - 0485 V5

HELP

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

INITIAL APPLICATION TO CONSTRUCT AND OPERATE
A PETROLEUM CONTAMINATED SOIL LAND APPLICATION FACILITY

or

REQUEST FOR INITIAL AUTHORIZATION UNDER THE GENERAL PERMIT
FOR PETROLEUM CONTAMINATED SOIL LAND APPLICATION (GPPCS 16-23)

Return to: SD Department of Environment and Natural Resources
Waste Management Program
523 East Capitol Avenue - Joe Foss Building
Pierre, South Dakota 57501-3182
Telephone (605) 773-3153

1.0 General Information

PROCESS INITIAL APPLICATION AS (please check one):
INDIVIDUAL PERMIT APPLICATION ☐
GENERAL PERMIT REQUEST ☐

1.01 Applicant Information:
Name: _____
Mailing Address: _____
City, Zip Code: _____ SD _____
Telephone: _____
Email Address (optional): _____

1.02 Landowner Information:
Name: _____
Mailing Address: _____
City, Zip Code: _____ SD _____
Telephone: _____
Email Address (optional): _____

1.03 Operator Information:
Name of operator: _____
Mailing Address: _____
City, Zip Code: _____ SD _____
Telephone: _____
Email Address (optional): _____

1.04 Lienholder of Public Record:
Name: _____
Mailing Address: _____
City, Zip Code: _____ SD _____
Telephone: _____
Email Address (optional): _____

1.05 Location of site from nearest municipality:

_____

1.06 Legal description (quarter-quarter, section, township, range, county):

1.07 Size of site (acres): _____

1.08 Estimated annual tonnage to be accepted at facility (if you plan to accept 25,000 or more tons per year your application will be processed as an individual permit):

_____

1.09 Estimated date the site will begin operation: _____

1.10 Is the site located:

	Yes	No
In a wetland, as defined in ARSD 74:27:07:01?	☐	☐
Within 200 feet of surface water (excluding wetlands) as defined by ARSD 74:51:01:01?	☐	☐
Within 500 feet of any occupied dwellings, without written permission from owner(s)?	☐	☐
Within 100 feet of a property boundary, without written permission from adjacent property owner(s)?	☐	☐
Where the depth to an aquifer, as defined by ARSD 74:54:02:01 is less than 20 feet?	☐	☐
Within a 100 year floodplain?	☐	☐
Where the primary subsurface material is sand or gravel, as determined by the Unified Soil Classification System, within 20 feet of the ground surface?	☐	☐
In an area that adversely affects wildlife, recreation, aesthetic value of an area, or any threatened or endangered species?	☐	☐
Within 1000 feet of any private or public well which supplies drinking water for human consumption?	☐	☐
Within a wellhead protection area?	☐	☐
Within the incorporated limits of any municipality?	☐	☐
On land with a slope of greater than 5%?	☐	☐

If any of the above answers are yes, this application will be processed as an individual permit.

1.11 Distances to surface waters, including wetlands and floodplains (½ mile radius):

1.12 Distances to occupied buildings and names of the building owners (½ mile radius):

1.13 Description of the soil types at the land application site, based on the Unified Soil Classification System (NOTE: This information is usually found in the county soil survey. Contact local NRCS office):

1.14 Distances to domestic wells, depth of wells, and names of the landowners (½ mile radius):

1.15 Methods/measures proposed to divert surface water run-on and retain runoff at the facility:

_____

1.16 Methods/measures used to control access to the facility:

_____

1.17 Previous history of waste disposal activities at the facility:

_____

1.18 Depth to nearest aquifer and ground water at the facility:

_____

1.19 Indicate the land slope of the site:

_____

2.0 Document Submittals Required

Attach documents as indicated by the following key.
[A] For your first application to operate under the **general permit**.
[B] For your first **individual permit** application.
[ALL] For **all** applications.

2.01 **[ALL]** Statement of resolution by county commissioners approving the proposed site.

2.02 **[A]** Affidavit of Publication of the notice of intent. (See condition 1.06, general permit).

2.03 **[ALL]** An aerial photograph of the site with the site boundaries clearly marked.

2.04 **[ALL]** A United States Geological Survey (USGS) topographic map of the site with the site boundaries clearly marked.

2.05 **[ALL]** Environmental statements from the following agencies stating that the establishment of the treatment site will not adversely impact threatened or endangered species or wetlands (**provide them with a map showing exactly where the site is located**):

Leslie Murphy
Department of Game, Fish, and Parks
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501
(605) 773-3387

Pat Snyder
Department of Environment and Natural Resources - Surface Water Quality Program
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501
(605) 773-3351

Scott Larson
U.S. Department of the Interior - Fish and Wildlife Service
420 South Garfield, Suite 400
Pierre, South Dakota 57501
(605) 224-8693

2.06 **[ALL]** A written statement(s) from the appropriate zoning authority(s) that the establishment of the facility meets all local zoning ordinances and regulations. This statement is required from the county and from the nearest municipality (if the proposed facility is to be located within three miles of the incorporated limits of that municipality). A statement is required even if there are not any applicable requirements.

2.07 **[ALL]** A signed Certification of Applicant form required by SDCL 1-40-27 and SDCL 34A-6-1.10 (attached).

2.08 **[B]** If the site does not meet any of the siting criteria stated in condition 2.01 of the general permit or section 1.10 of this application, document efforts that will be made to minimize potential environmental impact(s).

2.09 **[ALL]** A sketch of the site showing gates, fences, roads, surface water within 1,000 feet, wells within 1,000 feet, homes within 1,000 feet, and other pertinent structures. Also label all adjacent land showing who owns it.

2.10 **[ALL]** A copy of this completed application must be sent to the county and the nearest municipality for their records. Indicate in writing that you have done this.

2.11 **[ALL]** All adjacent landowners must be notified in writing, via certified mail, of your permit application. Submit a copy of the letter you sent to the adjacent landowners and the certified mail return receipts with the application.

2.12 **[ALL]** Provide documentation showing whether or not the site is located within a 100-year floodplain.

2.13 **[A]** If the site is located within 100 feet of property boundaries, then written permission must be obtained from the property owner(s). A copy of the written permission must be provided with this application.

3.0 Permit Fee

Each request for authorization or application for an individual permit must be accompanied by a fee based on the annual tonnage of soil accepted in accordance with the following fee schedule:

Type I	Facilities receiving more than 150,000 tons per year	$ 5,000
Type II	Facilities receiving between 5,000 and 149,999 tons per year	$ 500
Type III	Facilities receiving between 500 and 4,999 tons per year	$ 250
Type IV	Facilities receiving less than 500 tons per year	No fee

Notes:

1. The general permit is applicable only to Type IIB, III, and IV facilities. Type I and Type IIA facilities must obtain an individual permit.
2. One cubic yard of soil is approximately equal to one ton.

4.0 Signatures

South Dakota Codified Law Section 34A-6-1.10 provides:

*"**Responsibility and liability of owner or operator.** The owner or operator of a solid waste disposal facility that is regulated under §§ 34A-6-1.1 to 34A-6-1.38, inclusive, is responsible in perpetuity for the solid waste and liable in perpetuity for any pollution or other detrimental effect caused by the solid waste. No person may dispose of solid waste other than mine wastes in this state until the owner or operator of the solid waste disposal facility executes an agreement with the board acknowledging such perpetual responsibility and liability for the solid waste.*"

By signing this permit application, the signatory acknowledges that they have read and understand the information contained in the foregoing application and attachments, and to the best of their knowledge, the information is true and accurate. In addition, pursuant to SDCL 34A-6-1.10, I hereby agree to and accept perpetual responsibility and liability for the solid waste disposal at this facility.

Applicant's Signature	Date
Landowner's Signature	Date
Operator's Signature	Date
Lienholder's Signature	Date

Department of Environment and Natural Resources
Waste Management Program
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501-3182
Telephone: 605-773-3153

STATE OF SOUTH DAKOTA
BEFORE THE SECRETARY OF
THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION OF	)	
	)	**CERTIFICATION OF**
_____	)	
	)	**APPLICANT**
STATE OF SD	)	
	)	
COUNTY OF _____	)	

I, _____, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

I have read and understand South Dakota Codified Law Section 1-40-27 which provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner, or resident general manager of the facility for which application has been made:

(a) Has intentionally misrepresented a material fact in applying for a permit;
(b) Has been convicted of a felony or other crime involving moral turpitude;
(c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;
(d) Has had any permit revoked under the environmental laws of any state or the United States; or
(e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

I certify pursuant to 1-40-27, that as an applicant, officer, director, partner, or resident general manager of the activity or facility for which the application has been made that I; a) have not intentionally misrepresented a material fact in applying for a permit; b) have not been convicted of a felony or other crime of moral turpitude; c) have not habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage; (d) have not had any permit revoked under the environmental laws of any state or the United States; or e) have not otherwise demonstrated through clear and convincing evidence of previous actions that I lack the necessary good character and competency to reliably carry out the obligations imposed by law upon me. I also certify that this application does not substantially duplicate an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Further;

"I declare and affirm under the penalties of perjury that this claim (petition, application, information) has been examined by me, and to the best of my knowledge and belief, is in all things true and correct."

Dated this _____ day of _____ , 20____ .

_____
Applicant (print)

_____
Applicant (signature)

Subscribed and sworn before me this _____ day of _____ , 20_____ .

_____
Notary Public (signature)

My commission expires: _____

(SEAL)

PLEASE ATTACH ANY ADDITIONAL INFORMATION NECESSARY TO DISCLOSE ALL FACTS AND DOCUMENTS PERTAINING TO SDCL 1-40-27 (1) (a) THROUGH (e). ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION

INFORMATION SOURCES

A. Flood Plain Information

1. Federal Emergency Management Agency (FEMA)
   Flood Map Service Center
   PO Box 1038
   Jessup, MD 20794-1038
   Phone: (877) 336-2627

2. US Army Corps of Engineers
   1616 Capitol Avenue
   Omaha, NE 68102-4901
   Phone: (402) 995-2322 or (402) 995-2328

3. Contact County Government

4. Division of Emergency Management
   Phone: (605) 773-3231

B. Wetlands Information

1. US Department of the Interior
   Fish & Wildlife Service
   420 S. Garfield, Suite 400
   Pierre, SD 57501
   Phone: (605) 224-8693

2. Contact local NRCS office

C. USGS Topographic Map Information

1. SD Geological Survey
   USD Science Center
   414 E. Clark St.
   Vermillion, SD 57069-2390
   Phone: (605) 677-5227

2. USGS Information Services
   Box 25286
   Denver, CO 80225
   Phone: (888) 275-8747

3. Contact local NRCS office

D. Airport Safety Information

1. Federal Aviation Administration
   Bismarck Airports District Office
   2301University Drive Bldg 23B
   Bismarck, ND 58504
   Phone: (701) 323-7380
   Fax: (701) 323-7399

2. SD Department of Transportation
   Office of Aeronautics
   700 E. Broadway Ave.
   Pierre, SD 57501
   Phone: (605) 773-3265

E. Geological & Ground Water Information

1. SD Geological Survey
   USD Science Center
   414 E. Clark St.
   Vermillion, SD 57069
   Phone: (605) 677-5227

2. US Geological Survey
   SD Water Science Center
   1608 Mountain View Road
   Rapid City, SD 57702
   Phone: (605) 394-3220

3. Contact local NRCS office

F. Soil Classification Information

1. Contact local NRCS office

G. Surface Water/Wetlands

1. Department of Environment and Natural Resources
   523 East Capitol – Joe Foss Bldg.
   Pierre, SD 57501-3182
   Phone: (605) 773-3351
   Also for 401 Certification

2. Game, Fish & Parks
   523 East Capitol - Joe Foss Bldg.
   Pierre, SD 57501
   Phone: (605) 773-3387

3. US Army Corps of Engineers
   South Dakota Regulatory Office
   28563 Powerhouse Road
   Pierre, SD 57501
   Phone: (605) 224-8531
   Fax: (605) 224-5945
   For 404 Permitting

H. General Assistance

1. Black Hills Council of Local Governments
   Rapid City, SD – (605) 394-2681
2. Central South Dakota Enhancement District
   Pierre, SD – (605) 773-2780
3. First District Association of Local Governments
   Watertown, SD – (605) 882-5115
4. Northeast Council of Government
   Aberdeen, SD – (605) 626-2595
5. Planning & Development District III
   Yankton, SD – (605) 665-4408
6. South Eastern Council of Governments
   Sioux Falls, SD – (605) 367-5390

For additional information call the Waste Management Program at (605) 773-3153

ENVIRONMENTAL CONTACTS

This is an example form letter which can be used when contacting the agencies <u>required by section 2.05 of this application</u>. These contacts must be made for all initial solid waste permit applications.

Date

Contact Name
Contact Agency
Address
City, State Zip Code

Dear Contact Name:

The __(1)__ is applying for a solid waste permit to construct and operate a __(2)__ facility. This facility will be located on the __(3)__, South Dakota.

A National Wetlands Inventory map, if available, and your comments regarding endangered species, their habitat, wetlands, and general impacts to fish and wildlife resources are requested for the above referenced site.

Thank you for your prompt response. If you have any questions, please contact __(4)__ at __(5)__.

Sincerely,

__(4)__

(1) - The name of the City, District, Association or entity for which the application is being made. *Example:* City of Edgemont

(2) - The type of facility for which you need a permit. *Example:* restricted use

(3) - The legal description of the proposed solid waste facility. *Example:* NW 1/4 NE 1/4 of Section 12, Township 7 North, Range 2 West, Haakon County

(4) - Your name

(5) - A telephone number at which you can be reached for more information.

ADJACENT LAND OWNERS NOTIFICATION

ARSD 74:27:09:02 states ". . . the applicant must notify by certified mail all adjacent land owners of record, according to property tax roles, that an application has been filed." This is an example form letter that you may use to comply with this section of the regulations. You will need to submit a copy of the return receipt and the letter with your application.

Date

Contact Name
Address
City, State Zip Code

CERTIFIED
Return Receipt Requested

Re: (___1___) solid waste permit application

Dear Contact Name:

This letter is to inform you that the (___1___) is filing a solid waste permit application with the South Dakota Department of Environment and Natural Resources on or before (___2___). This application is for the construction and operation of a (___3___) facility located in the (___4___). Notification is being given to all landowners whose properties are adjacent to the proposed facility location in accordance with ARSD 74:27:09:02.

If you have any questions, please contact me at (___5___).

Sincerely

(___6___)

(1) The name of the city, district, association, or entity for which the application is being made.

(2) The estimated date the application will be submitted to the DENR.

(3) The type of proposed facility for which you need a permit. *Example:* restricted use, landfarm, municipal solid waste.

(4) The legal description of the proposed solid waste facility. *Example:* NW ¼ NE ¼ of Section 12, Township 7 North, Range 2 West, Haakon County

(5) A telephone number at which you can be reached for more information.

(6) Your name (title).

Example of County Resolution

Resolution No. _____

_____ **County Commission**

WHEREAS, (Company or City) desires to establish a (type & kind) facility for the purpose of solid waste management; and

WHEREAS, the (City, if applicable) has approved siting the proposed facility; and

WHEREAS, the siting of this proposed facility is not in conflict with any established zoning laws or ordinances; and

WHEREAS, (Company or City) has (or will) file(d) a solid waste application with the South Dakota Department of Environment and Natural Resources (DENR); and

WHEREAS, DENR has (or will) review(d) that application to determine that the facility can be operated within the South Dakota laws and regulations; and

WHEREAS, DENR has (or will or may) recommended the approval of the permit with conditions adequate to safeguard the environment; and

WHEREAS, the Board of Minerals and Environment will review, modify, approve, or deny the permit if the tentative recommendations and/or conditions of the permit are contested by any interested party; and

WHEREAS, the County Commission of _____ County is required by South Dakota law SDCL 34A-6-103 to approve of a solid waste facility prior to the issuance of a solid waste permit;

IT IS THEREFORE RESOLVED that the County Commission of _____ County hereby approves construction and operation of the proposed facility to be operated under the terms of a solid waste permit to be issued by the Board of Minerals and Environment.

APPROVED this _____ day of _____, 20___ by the _____ County Commission in regular session at _____.

Signed _____
County Clerk

PRINT FOR MAILING

CLEAR FORM