

**STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**INITIAL APPLICATION TO STORE AND/OR LAND APPLY DAIRY PROCESSING BY-PRODUCTS
OR
INITIAL REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT
TO STORE AND/OR LAND APPLY DAIRY PROCESSING BY-PRODUCTS (GPWA 12-22)**

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: _____
Telephone: _____
Email Address (optional): _____
- 1.02 Landowner Information: (All lands used for storage and/or land application must have the landowner identified and must have the signature of the landowner in Section 4.0 of this application. Attach additional pages if necessary.)
Name: _____
Mailing Address: _____
City, Zip Code: _____
Telephone: _____
Email Address (optional): _____
- 1.03 Operator Information:
Name: _____
Mailing Address: _____
City, Zip Code: _____
Telephone: _____
Email Address (optional): _____
- 1.04 Lienholder of Public Record:
Name: _____
Mailing Address: _____
City, Zip Code: _____
Telephone: _____
Email Address (optional): _____

1.05 Location of storage and/or land application site(s) from the nearest municipality:

1.06 Legal description of storage site(s) (quarter-quarter, section, township, range, county):

Legal description of land application site(s) (quarter-quarter, section, township, range, county):

1.07 Size of storage lagoon(s) (acres): _____
Size of land application area(s) (acres): _____

1.08 This site will be used for (check all that apply):
_____ Storage of dairy processing by-products
_____ Land application of dairy processing by-products

1.09 Estimated annual tonnage of dairy processing by-products to be stored and/or land applied:

1.10 Estimated date the site(s) will begin operation (if a new facility):

| | | | |
|------|---|-------|-------|
| 1.11 | Are the storage and/or land application site(s) located: | Yes | No |
| | within 1,000 feet of an occupied dwelling, without written permission from owner(s)? | _____ | _____ |
| | within 200 feet of surface water, including wetlands, as defined by ARSD 74:51:01:01? | _____ | _____ |
| | within 50 feet of any natural or manmade drainage? | _____ | _____ |
| | within 1,000 feet of any private or public well that supplies drinking water for human consumption? | _____ | _____ |
| | within 200 feet of a property boundary, without written permission from the adjacent landowner(s)? | _____ | _____ |
| | where the depth to an aquifer, as defined by ARSD 74:54:02:01, is less than 10 feet? | _____ | _____ |
| | within 100 feet of a quarry or gravel pit? | _____ | _____ |
| | within a wetland as defined by ARSD 74:27:07:01? | _____ | _____ |
| | within a 100-year floodplain? | _____ | _____ |
| | on land that has an average slope greater than six percent? | _____ | _____ |

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

1.12 Distances to surface waters, including wetlands and floodplains (1/2 mile radius):

1.13 Distances to occupied homes/buildings and names of the owners (1/2 mile radius):

1.14 Distances to domestic wells, depth of wells, and names of the landowners (1/2 mile radius):

1.15 Methods/measures proposed to control access to the storage and/or land application site(s):

1.16 Previous history of waste disposal or land application activities at the site(s):

1.17 Depth to nearest aquifer and ground water at the site(s):

2.0 Document Submittals Required

Attach documents as indicated by the following key:

[A] For your first application to be authorized to operate under the **general permit**.

[B] For your first application for an **individual permit**.

[ALL] For **all** applications submitted.

2.01 **[ALL]** Statement of resolution by county commissioners approving the storage and/or land application site(s).

2.02 **[A]** Affidavit of Publication of the notice of intent (see condition 1.06 of the general permit). Since the notice of intent does not have to be published until at least 20 days prior to the anticipated use of the site(s), this document can be submitted at a later date.

2.03 **[ALL]** A written statement(s) from the appropriate zoning authority(s) that the establishment of the storage and/or land application sites(s) does not violate any local zoning ordinances or regulations. This statement is required from the county and from the nearest municipality (if the proposed site(s) is to be located within three miles of the incorporated limits of that municipality). A statement is required even if there are no applicable requirements.

2.04 **[ALL]** An aerial photograph of the site(s) with the site(s) boundaries clearly marked.

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

2.06 **[ALL]** Nutrient Management Plan (NMP). The NMP must be developed by a County Extension Agent, qualified soil scientist, or consultant. At a minimum, the NMP must consider and discuss the following:

- A. waste characteristics (laboratory analysis) including:
 - total nitrogen compounds (total kjeldahl nitrogen and nitrates)
 - phosphorous
 - sodium
 - chlorides
- B. waste volumes (daily and annual generation);
- C. storage requirements and plan;
- D. site (topography) and soil characteristics;
- E. land use (crop or vegetative growth);
- F. loading rate analysis;
- G. nutrient uptake;
- H. maximum volume criteria;
- I. application methods;
- J. soil monitoring; and
- K. wintertime operation.

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

- 2.08 **[ALL]** Environmental statements from the following agencies stating that the establishment of storage and/or land application disposal site(s) will not adversely impact threatened or endangered species or wetlands. Provide the agencies with a map showing exactly where the proposed site(s) is located.

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

*John Miller
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*

- 2.09 **[ALL]** A signed Certification of Applicant form required by SDCL 1-40-27 and SDCL 34A-6-1.10 (attached).
- 2.10 **[ALL]** All landowners adjacent to the storage and/or land application site(s) must be notified in writing, via certified mail, of a request for authorization under the general permit or an individual permit application. Submit a copy of the letter you sent to the adjacent landowners and the certified mail return receipts with the application.
- 2.11 **[ALL]** A copy of this application must be sent to the county and the nearest municipality for their records. Indicate in writing that you have done this.
- 2.12 **[B]** If the site(s) does not meet the siting criteria stated in condition 2.01 of the general permit or section 1.11 of this application, document efforts that will be made to minimize potential environmental impacts.

3.0 Permit Fee

Each application to be authorized under the general permit or individual permit application must be accompanied by a fee based on the annual tonnage of waste to be stored and/or land applied 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 |

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

Note: Additional landowner signatures can be included below or attached separately if necessary.

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 |
| |) | |
| STATE OF _____ |) | APPLICANT |
| |) | |
| 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
2301 University 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 you may want to use when contacting the agencies required by Section 2.08 of this application. 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 land application site permit. This facility will be located in __(2)__, South Dakota.

Enclosed is a map showing exactly where the facility is located. Please review the location, and provide your comments regarding the impact this facility would have on endangered species, their habitat, wetlands, and general impacts to fish and wildlife resources.

Thank you for your prompt response. If you have any questions, please contact __(3)__ at __(4)__.

Sincerely,
__(5)__

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

(2) - 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

(3) - Your name

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

(5) - Your name.

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 a copy of 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