

**SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3181**

**GENERAL PERMIT FOR STORM WATER DISCHARGES
ASSOCIATED WITH INDUSTRIAL ACTIVITIES
AUTHORIZATION TO DISCHARGE UNDER THE
SURFACE WATER DISCHARGE SYSTEM**

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD) Chapters 74:52:01 through 74:52:11, contact of **industrial** activity, located in the State of South Dakota, are authorized to discharge storm water associated with industrial activities in accordance with the conditions and requirements set forth herein.

This general permit shall become effective on **October 1, 2012**.

This general permit and the authorization to discharge shall expire at midnight, **September 30, 2017**.

Signed this **26th** day of **September, 2012**



Authorized Permitting Official

Steven M. Pirner
Secretary
Department of Environment and Natural Resources

Note – This page will be replaced with a copy containing the assigned permit number once coverage is authorized.

Amended: August 27, 2012
Effective: October 1, 2012

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1.0 DEFINITIONS

“ARSD” means the Administrative Rules of South Dakota.

“Best Management Practices” (“BMPs”) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control industrial site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

“Coal Pile Runoff” means the runoff from or through any coal storage pile.

“Concrete Washout” as used in the General Permit refers to any wash waters derived from the cleaning of concrete trucks and/or equipment.

“Construction Activity” means activities including clearing, grading, and excavating, which result in the disturbance of one or more acres of total land area. See the General Permit for Storm Water Discharges Associated with Construction Activities for more information.

“Control Measures” as used in this general permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the state.

“DENR” means the South Dakota Department of Environment and Natural Resources.

“Discharge” as used in the General Permit is an addition of any pollutant or combination of pollutants to surface waters of the state from any point source.

“EPA” or **“U.S. EPA”** means United States Environmental Protection Agency.

“Land Application System” means an operation that places solid wastes onto or incorporates solid wastes into the soil surface.

“Landfill” means a solid waste disposal facility or section of a facility where solid waste is permanently placed in or on land.

“Materials” include, but are not limited to: raw materials; fuels; solvents; detergents; any chemical the facility is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

“Material handling activities” include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. “Sealed” means banded or otherwise secured and without operational taps or valves;
- Adequately maintained vehicles used in material handling; and
- Final products intended for outdoor use, other than products that would be mobilized in storm water discharges (e.g., rock salt).

“Minimize” means to reduce and/or eliminate to the extent achievable using control measures (including Best Management Practices) that are technologically available and economically achievable and practicable in light of best industry practice.

“MS4” or “Municipal Separate Storm Sewer System” is defined at 40 CFR §122.26(b)(8) to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

“Municipality” means a city, town, county, district, sanitary district, or other public body created by or under state law with jurisdiction over the disposal of sewage, industrial wastes, or other wastes.

“No Exposure” exists at an industrial facility when all industrial materials and activities are protected to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities such as material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products must be protected by a storm resistant shelter.

“**NOI**” means Notice of Intent to be covered by this general permit. (See Attachment A.)

“**Nonpoint Source**” means a source of pollution that is not defined as a point source.

“**NOT**” means Notice of Termination of coverage under this general permit. (See Attachment B.)

“**Operator**” means the owner, party, person, general contractor, corporation, or other entity that has day-to-day operational control over the facility. The operator, along with the owner, is responsible for ensuring compliance with all conditions of the General Permit and with development and implementation of the “Storm Water Pollution Prevention Plan”.

“**Point Source**” means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged.

“**Pollutant**” is defined at ARSD Section 74:52:01:01(35) and is any dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, munitions, chemical wastes, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or any industrial, municipal, or agricultural waste discharged into waters of the state. This term does not mean sewage from watercraft; or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state after it is determined that such injection or disposal will not result in the degradation of ground or surface water resources.

“**Process Wastewater**” means water which, during manufacturing or processing, comes into direct contact with or results from the production or use of a raw material, intermediate product, finished product, by-product, or waste product.

“**Publicly Owned Treatment Works**” or “**POTW**” means any device or system used in a treatment, including recycling and reclamation, of municipal sewage or industrial waste of a liquid nature which is owned by the state or a municipality. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

“**Regulated Substance**” means the compounds designated by SDDENR under South Dakota Codified Law, Sections 23A-27-25, 34A-1-39, 34A-6-1.3(17), 34A-11-9, 34A-12-1 to 34A-12-15, inclusive, 38-20A-9, 45-6B-70, 45-6C-45, 45-6D-60, and 45-9-68, including pesticides and fertilizers regulated by SDDENR of Agriculture, the hazardous substances designated by the EPA pursuant to section 311 of the Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500 as amended by the Clean Water Act of 1977, Pub.L. 95-217, the toxic pollutants designated by Congress or the EPA pursuant to

section 307 of the Toxic Substances Control Act, Pub.L. 99-519, the hazardous substances designated by the EPA pursuant to section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub.L. 96-510, and petroleum, petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, substances, or additives to be utilized in the refining or blending of crude petroleum or petroleum stock, and any other oil or petroleum substance. This term does not include sewage and sewage sludge.

“Runoff” is a storm water discharge that enters waters of the state.

“Secretary” means the Secretary of the Department of Environment and Natural Resources or an authorized representative.

“Storm Water” means, for the purposes of this General Permit, storm water runoff, snow melt runoff, or surface runoff and drainage.

“Storm Water Associated with Construction Activity” means the discharge of storm water runoff from construction activities including, but not limited to, clearing, grading, and excavating, that result in land disturbance of one or more acres of total land area, or which may be part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

“Storm Water Discharge Associated with Industrial Activity” is defined as storm water runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 C.F.R. Section 122.26(b)(14) (July 1, 2001).

“Storm Water Pollution Prevention Plan”, “SWPPP”, “Plan” identifies potential sources of storm water pollution at an industrial facility and specifies structural and non-structural control measures that will be in place to minimize negative impacts caused by storm water discharges associated with industrial activity. See Section 4.0 for details on the requirements for a SWPPP.

“SWD” means Surface Water Discharge.

“Temporarily inactive site” means a site that is owned and operated as an industrial site but is not operating or staffed for at least half of the year. Monitoring and inspection requirements do not apply during the temporary inactivity, as long as steps have been taken to ensure the facility meets No Exposure requirements during the time of temporary inactivity. All other permit conditions remain in force.

“TMDL” or “Total Maximum Daily Load” means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

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“Treatment Works Treating Domestic Sewage” means a Publicly Owned Treatment Works or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and wastewater from humans or household operations that are discharged or otherwise enter a treatment works.

“Waste Pile” means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

“Waters of the State” means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, but not waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

2.0 COVERAGE UNDER THIS GENERAL PERMIT

2.1 Permit Area.

This general permit shall apply to storm water discharges associated with industrial activities located within the state of South Dakota into waters of the state.

2.2 Discharges Covered.

1. This general permit shall authorize all new and existing discharges of storm water associated with industrial activity within the state of South Dakota for any of the categories of industries identified below. Discharges identified under Section 2.3, 2.4, and 2.5 are excluded from coverage.
 - a. Facilities classified as Standard Industrial Classifications 20 through 39 (See Attachment C for more information on Standard Industrial Classification codes);
 - b. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry). This includes active or inactive mining operations, and oil and gas exploration, production, processing, treatment, or transmission facilities discharging storm water that has come into contact with any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of such operations. Inactive mining operations are mining sites that are not being actively mined but have an identifiable owner/operator;
 - c. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under SDCL 34A-11, ARSD Article 74:28, or RCRA Subtitle C;
 - d. Landfills, land application sites, and open dumps that have received industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under SDCL 34A-6, ARSD Article 74:27, or RCRA Subtitle D;
 - e. Facilities involved in the recycling of materials including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards classified as Standard Industrial Classification 5015 and 5093;
 - f. Steam electric power generating facilities, including coal handling sites;
 - g. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are involved in vehicle maintenance (such as vehicle rehabilitation, mechanical repairs, painting,

- fueling, and lubrication), equipment cleaning operations, airport deicing operations, or other industrial activities are subject to this general permit;
- h. Treatment works treating domestic sewage with a design flow of 1.0 million gallons per day or more. This does not include farm lands, domestic gardens, lands used for sludge management where sludge is beneficially reused and lands are not physically located in the confines of the facility, or other areas that are in compliance with 40 CFR 503;
 - i. Oil and gas exploration, production, processing, treatment operations, or transmissions facilities that have had a discharge of a reportable quantity of oil or a hazardous substance (40 CFR 110.6, 117.21, or 302.6); and,
 - j. Discharges from industrial facilities that have been designated by the Secretary as needing a permit.
2. Storm water construction discharges mixed with a storm water discharge from an industrial source may be covered where:
- a. The industrial source is located on the same site as the construction activity; and
 - b. The storm water discharges from construction sources are covered by a separate surface water discharge general permit or individual permit.
3. The following non-storm water discharges may be authorized by this general permit provided the non-storm water component of the discharge is identified in the storm water pollution prevention plan, with an explanation of pollution prevention measures to be implemented:
- a. Discharges from firefighting activities;
 - b. Routine external building washdown that does not use detergents or other compounds;
 - c. Pavement wash waters where detergents are not used and where spills or leaks of toxic or hazardous materials have not occurred;
 - d. Air conditioning condensate;
 - e. Uncontaminated ground water; and
 - f. Waters used as a best management practice to wash vehicles or control dust.

2.3 No Exposure.

1. If a facility listed in Section 2.2 has taken steps to ensure there is no exposure to storm water, the facility may be eligible for an exemption from permit coverage. To qualify, the facility must submit a “No Exposure Certification form” provided by SDDENR (Attachment D) and must be approved by the Secretary for exemption from the permitting requirements. A written approval letter from the Secretary will be sent after receiving the form.
2. For facilities already covered under this general permit, coverage is automatically terminated once the Secretary approves the no exposure exemption. No Notice of Termination is required for this.

2.4 Temporary Shutdown.

1. If a facility listed in Section 2.2 is temporarily inactive, and has taken steps to ensure the facility meets No Exposure requirements (see the checklist in Attachment D, part C), the facility may be eligible for a temporary exemption from monitoring and inspection requirements (Sections 3.7, 3.8, and 5.1). To qualify, the facility must submit a “Temporary Shutdown Notice” form provided by SDDENR (Attachment E) and must be approved by the Secretary for exemption from the monitoring and inspection requirements. A written approval letter from the Secretary will be sent after receiving the form.
2. Facilities which cease to be temporarily inactive are immediately subject to the monitoring and inspection requirements. The facility shall notify the SDDENR either in writing or by phone at (605) 773-3351 of the temporary shutdown, including dates, within 5 business days of resuming activity.

2.5 Discharges Not Covered.

This general permit does not authorize storm water discharges that are:

1. mixed with sources of non-storm water, other than discharges that are identified in Section 2.2 of this general permit or that are authorized under a separate discharge permit;
2. the Secretary determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards;
3. process waters, including those from truck wash-outs and concrete wash water;
4. discharges that contain leachate;
5. discharges that contain regulated substances, hazardous substances, or oil resulting from on-site spills. Permittees are subject to federal reporting requirements of 40 CFR Part 110, Part 117, and Part 302 relating to spills or other

releases of oils or hazardous substances. Spills in excess of reportable quantities shall be properly reported as stated in Section 6.17.; or

6. discharges of fill material into waters of the state. Such discharges are required to obtain a Section 404 federal Clean Water Act permit from the U.S. Army Corps of Engineers.

2.6 Obtaining Authorization.

1. A Notice of Intent (NOI) form, found in Attachment A, must be signed in accordance with Section 6.8 and submitted to the address indicated on the NOI form to request coverage under this general permit for storm water discharges from industrial sites. This information must be submitted at least 15 days prior to commencing any industrial activity at the site.
2. Upon receipt of a complete NOI, the Secretary shall make the decision to grant or deny coverage, or request additional information. The applicant will receive a letter of authorization from the department once permit coverage is granted for storm water discharges from the industrial site(s).
3. Operators are not prohibited from submitting late NOIs. When a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The Secretary reserves the right to take appropriate enforcement action for any unpermitted activities that may have occurred between the time industrial activity commenced and authorization of storm water discharges is granted.
4. SDCL 1-40-39 authorizes SDDENR to accept a document with an electronic signature. SDDENR shall provide for the authenticity of each electronic signature by adhering to any standards established by the South Dakota Bureau of Information and Telecommunications pursuant to SDCL Section 53-12-47 and 53-12-50 or any other standards established by rules promulgated pursuant to SDCL Chapter 1-26. Any entity submitting a report to SDDENR as required by EPA may satisfy reporting requirements by cross-media electronic reporting in lieu of paper-based reporting as provided for by the EPA pursuant to the standards promulgated in the Federal Register, Vol. 70, No. 197 (October 13, 2005--40 CFR Parts 3, 9, 51 et al.--Cross-Media Electronic Reporting; Final Rule).
5. Upon the effective date of the new General Permit, the existing General Permit will be terminated. If permittees authorized under the existing General Permit need to continue coverage under the new General Permit, an updated Notice of Intent and Certification of Applicant shall be submitted prior to the issuance of the new General Permit, and shall include the permittee's current permit number.

2.7 Additional Notification.

Facilities that discharge storm water to a permitted municipal separate storm sewer system (MS4) shall submit signed copies of the NOI form to the municipal operator. At

the time of this writing, the permitted MS4s are: Aberdeen, Brookings, Huron, Mitchell, North Sioux City, Pierre, Rapid City, Sioux Falls, Spearfish, Sturgis, Vermillion, Watertown, Yankton, Meade County, and Pennington County.

2.8 Transfer of Ownership.

If the owner or operator of a permitted facility changes, the new owner or operator of the facility must submit a Transfer of Ownership form (Attachment F) to the Secretary at least 30 working days prior to the change.

This general permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Secretary at least 30 days in advance of the proposed transfer date using the form in Attachment F;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of general permit responsibility, coverage, and liability between them; and,
3. If the operation of the facility will essentially remain unchanged and no action is taken by the secretary, the transfer is effective on the date specified in the agreement. If changes are planned, the permit must be transferred as set forth in ARSD Section 74:52:04:01.

2.9 Terminating Coverage.

1. Permittees wishing to terminate coverage under this general permit must submit a Notice of Termination that is signed in accordance with Section 6.8.3 of this general permit. Compliance with this general permit is required until a Notice of Termination is submitted and approved by the Secretary.
2. Facilities meeting the criteria in Section 2.2 must maintain coverage under this general permit until all storm water discharges authorized by this general permit are eliminated, or the facility qualifies for a no exposure exemption (see Section 2.3).

2.10 Unauthorized Release of Regulated Substances.

This general permit does not authorize the discharge of any regulated substance listed in ARSD Section 74:34:01:03, including, but not limited to, fertilizers, pesticides, and petroleum substances such as oil and gasoline. If a release occurs, the storm water pollution prevention plan shall be modified and changes implemented, as appropriate. The plan must identify and address the following measures:

1. Ways to prevent the reoccurrence of such releases;
2. The proper response to such releases if and when they do occur; and

3. Steps to prevent pollutants from contaminating storm water runoff.

If a release occurs, the permittee is also required to notify the SDDENR Ground Water Quality Program at (605) 773-3296 or Emergency Management at (605) 773-3231 (during non-business hours). The permittee may be required to sample the discharge. Releases resulting in oil sheens must immediately be reported to the National Response Center at 1-800-424-8802. All notifications must be made as soon as reasonably practicable, but in no case greater than 24 hours after the release.

3.0 EFFLUENT LIMITS

Effective immediately and lasting through the life of the General Permit, all permittees shall comply with the effluent limits below. All permittees shall meet the following effluent limits to minimize the pollutants present in the discharges associated with industrial activity.

3.1 Implement Control Measures.

All necessary storm water control measures shall be implemented to eliminate or minimize contact of storm water with materials or activities that may result in pollution of the runoff. If contact cannot be eliminated or reduced, storm water should be treated before it is discharged from the site.

3.2 Precipitation Design Event.

All storm water control measures shall be selected, designed, and installed to minimize the pollutants present in runoff from a rainfall event of up to two (2) inches in a 24-hour period or snowmelt large enough to cause runoff.

3.3 Maintenance of Control Measures.

1. The permittee shall maintain all storm water control measures in effective working order. If any control measures are not operating effectively, the permittee shall perform maintenance on the control measures as necessary to maintain the continued effectiveness of the storm water control measures and before the next anticipated storm event or within seven (7) days of identifying the need for maintenance, whichever comes first.
2. At a minimum, the permittee shall remove sediment from controls when design capacity has been reduced by 50%.
3. All control measures and other protective measures identified in the SWPPP shall be maintained in effective operating condition. If the site inspections required by Sections 3.7 or 3.8 identify control measures that are not operating effectively, maintenance shall be performed as stated above.

3.4 Off-Site Pollutant and Dust Control.

1. The permittee shall minimize dust generation and vehicular tracking of soil or other pollutants off-site. At a minimum, street sweeping shall be performed if other best management practices are not adequate to minimize pollutants from being tracked on to the street.
2. If pollutants escape the industrial site, the permittee shall remove the off-site accumulations of pollutants at a frequency sufficient to minimize impacts.
3. The permittee shall revise the SWPPP and implement control measures to minimize further off-site track-out or sedimentation.

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3.5 Erosive Velocity Control.

The permittee shall place velocity dissipation devices at discharge points and along the length of a runoff conveyance, as necessary, to provide a non-erosive flow and protect the receiving waters of the state's natural uses and characteristics; both physical and biological.

3.6 Storage of Materials.

The permittee shall properly handle, store, and dispose of litter, chemicals, scrap material, raw material, fuel, and other materials to minimize pollutants entering storm water discharges. Final products intended for outdoor use, other than products that would be mobilized in storm water discharges (e.g., rock salt) are exempt from this requirement. Permittees are required to minimize the discharge of solid materials to waters of the state (except where authorized by a Section 404 permit from the United States Army Corps of Engineers).

3.7 Spills / Releases in Excess of Reportable Quantities.

1. The permittee shall have the capacity to control, contain, and remove spills at the site. If spills do occur, the permittee shall implement control measures to minimize the potential for contamination of the storm water and modify the SWPPP with the location of the spill and any new control measures.
2. Spills in excess of reportable quantities shall be properly reported as stated in Section 2.10.

3.8 Comprehensive Site Compliance Evaluations.

The permittee shall conduct a comprehensive site compliance evaluation at least once a year as part of one of the two semiannual site inspections required in Section 3.9. The results of the evaluation shall be summarized in a written report. In addition to the normal site inspection information, the evaluations shall include:

1. Areas contributing to a storm water discharge shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine if they are adequate and properly implemented or if additional control measures are needed. Structural control measures, storm water control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure they are operating correctly. The permittee shall visually inspect equipment needed to implement the SWPPP, such as spill response equipment.
2. Within two weeks of the inspection, the description of potential pollutant sources identified in the Plan shall be revised based on the results of the inspection. Within 12 weeks after the inspection, the changes to the plan shall be implemented. Upon request from a permittee, the Secretary may approve an

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additional time to modify or implement the plan. The permittee shall submit the request for an extension in writing and shall document the changes that are proposed, along with the need for the time extension.

3. Where a report does not identify any incidents of non-compliance, the permittee shall certify the facility is in compliance with the plan and this general permit. The certification shall be in accordance with Section 6.8.3.
4. The report shall summarize the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the Plan, actions taken, and identification of any incidents of non-compliance. The report shall be signed in accordance with Section 6.8. All inspection reports shall be retained with the SWPPP.

3.9 Inspections.

1. In addition to or as part of, the comprehensive site compliance evaluations described above, site inspections shall be conducted by the permittee at least semi-annually. An appropriately trained person familiar with the general permit conditions and the SWPPP must conduct the inspections. The purpose of inspections is to:
 - a. determine if structural and non-structural control measures require maintenance or changes and
 - b. evaluate the completeness and accuracy of the plan.
2. At least one inspection each calendar year must be conducted within 24 hours of a storm event greater than 2 inches or snowmelt large enough to cause runoff.
3. Monitoring shall be performed in accordance with Section 5.1 for the following parameters at least once per calendar year. Monitoring must be conducted within 24 hours of a storm event greater than 2 inches or snowmelt large enough to cause runoff. If an oil sheen is visible, a grab sample for Oil and Grease shall be taken immediately, analyzed, and reported.

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease	Presence or Absence of Sheen	Visual ¹
Oil and Grease, mg/L ²	Daily Maximum	Grab ¹
Visible Pollutants	Presence or Absence of Visible Pollutants, Discoloration, Etc.	Visual

¹ The presence or absence of an oil sheen shall be visually monitored. In the event that an oil sheen or floating oil is observed during discharge, a grab sample for Oil and Grease shall be taken immediately, analyzed, and reported.

² Use Standard Methods 1664A – hexane extraction.

4. When a facility is unable to collect a sample due to adverse climatic conditions (e.g., local flooding, high winds, tornadoes, electrical storms, extended frozen conditions, etc.), the facility must include a description of why samples could not be taken. The permittee may use this sampling waiver only once during a two-year period.
5. Inspection results and corrective actions taken in response to any deficiencies or opportunities for improvement identified during the inspection must be documented in the Plan.

3.10 Additional Requirements for Salt Storage.

Storage piles of salt that generate a storm water discharge to waters of the state shall be enclosed or covered to prevent exposure to precipitation, except when adding or removing materials from the pile.

3.11 Additional Requirements for Coal Pile Runoff.

The Total Suspended Solids (TSS) shall not exceed 50 mg/L at any time, and the pH shall be maintained between 6.0 standard units and 9.0 standard units at all times. Monitoring shall be conducted as required in Section 5.1.1 to ensure these limits are met.

4.0 STORM WATER POLLUTION PREVENTION PLAN

4.1 Storm Water Pollution Prevention Plan.

1. The permittee shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP), also referred to as “the Plan,” to address specific conditions at the permitted site. The goal of the Plan is to eliminate or minimize contact of storm water with materials or activities that may result in pollution of the runoff.
2. The Plan is not submitted to the SDDENR unless requested by the Secretary, but it must be retained at the permitted site. The general requirements of the Plan are included below.

4.2 Deadlines for Plan Preparation and Implementation.

1. New facilities. The Plan must be developed prior to the submittal of the NOI form. The Plan must be implemented before initiating any industrial activity.
2. Existing facilities. For sites covered under the current General Permit and reauthorized under this General Permit, the SWPPP shall be updated to reflect the conditions and requirements of this General Permit by **February 1, 2013**.

4.3 Keeping Plans Current.

1. The permittee shall modify the Plan whenever there is a change in design, construction, operation, or maintenance that changes the potential for the discharge of pollutants to waters of the state. The plan shall also be modified if it proves to be ineffective in eliminating or minimizing pollutants present in storm water.
2. The Secretary may notify the permittee at any time the Plan does not meet one or more of the minimum requirements of the general permit. This notification will identify the provisions of the general permit that are not being met by the Plan and identify which provisions require modifications to meet the minimum requirements. Within thirty (30) days of notification, the permittee shall make the required changes to the Plan and shall submit to the Secretary a written certification that the requested changes have been made. The Secretary may take appropriate enforcement action for the period of time the permittee was operating under a Plan that did not meet the minimum requirements of this general permit.

4.4 Contents of the Plan.

The Plan shall include, at a minimum, the following items:

1. Personnel Responsibilities. Each Plan shall identify personnel responsible for implementing, maintaining, and revising the Plan and those responsible for the reporting requirements of this general permit. This should include the facility contact person indicated on the NOI. The plan shall clearly identify the

responsibilities of personnel. All aspects of the facility's plan must be addressed in the personnel activities and responsibilities.

2. Site Map. The Plan shall contain a site map indicating the following, if applicable:
 - a. Drainage areas and directions of storm water runoff (indicated by arrows);
 - b. Discharge outfalls from the site (structures that carry storm water runoff from the facility such as floor drain systems, ditches, culverts, or storm sewers);
 - c. The name and location of waters of the state that receive facility storm water runoff (if waters of the state are too distant from the facility to be indicated on the site map, indicate the name, direction of flow, and identify the water of the state that would receive runoff from the site);
 - d. Areas where materials are exposed to storm water;
 - e. Locations of storm sewer inlets (such as municipal storm sewers) and an indication of which structures, if any, have floor drains or loading dock drains that are connected to storm sewers;
 - f. Locations and types of control measures currently installed at the facility to reduce or eliminate pollutants to storm water
 - g. Locations where spills or leaks have occurred; and
 - h. Areas of concern, including but not limited to: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage, or disposal of wastes; liquid storage tanks; processing areas; and storage areas.

3. Inventory of Exposed Materials. Each plan shall identify and describe all activities and materials that may be potential pollutant sources. The plan shall include an inventory of the types of materials handled at the site that are potentially exposed to precipitation and potential pollutant sources. This inventory shall include:
 - a. A narrative description of materials that have been handled, treated, stored, or disposed of in a manner allowing exposure to storm water during the past three years and the likelihood of their contact with storm water;
 - b. The method(s) and location(s) of on-site storage or disposal;
 - c. Practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present;
 - d. A prediction of the direction of flow and an identification of the types of pollutants that are likely to be present in storm water discharges;
 - e. The toxicity of chemicals used, produced, or stored;
 - f. A history of significant leaks or spills of toxic or hazardous pollutants;
 - g. The location and a description of existing control measures to reduce pollutants in storm water runoff;

- h. Risk Identification and Summary of Potential Pollutant Sources. In creating the inventory of exposed materials, the permittee must, at a minimum, evaluate the following areas at the industrial site (and other areas where appropriate) to determine whether or not materials are exposed in these areas:
- i. Vehicle and equipment maintenance, parking and storage areas, fueling areas, and washing/cleaning areas to determine if there is discolored soil evident as a result of fuel and lubricant leaks and spills;
 - ii. Liquid storage tanks and other bulk material stockpile areas;
 - iii. Loading and unloading areas;
 - iv. Outdoor manufacturing, processing or storage areas, and industrial plant yards to determine if there is discolored soil in these areas as a result of leaked or spilled solvents, fuels, or lubricants;
 - v. Dust or particulate generating areas, including dust collection devices that may release dust;
 - vi. Rooftops contaminated by industrial activity or operation of a pollution control device;
 - vii. On-site waste disposal areas, such as waste ponds, dumpsters, solid waste storage or management areas; and
 - viii. Exposed (non-vegetated) soil areas where there is a potential for erosion to occur.
4. Sampling Data. A summary of all sampling data describing pollutants in storm water discharges from the facility. This includes a summary of any voluntary sampling data collected during the past 3 years or sampling performed under Section 5.1.4 or 5.1.7 of this general permit.
5. Non-Storm Water Discharges. The plan shall include a certification the discharge has been tested or evaluated for the presence of non-storm water discharges. The evaluation should be performed during dry weather as described in paragraph 6 of this Section. A discharger that is unable to provide the certification required by this paragraph must notify the Secretary. The certification shall be as follows:
- “I certify under penalty of law that the storm water drainage system in this SWPPP has been tested or evaluated for the presence of non-storm water discharges either by me, or under my direction and supervision. To the best of my knowledge and belief, the information submitted is true, accurate, and complete. At the time this plan was completed no unauthorized discharges were present. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.”*
6. Dry Weather Screening. Evaluate all discharge conveyances from the site (storm sewers, pipes, tile lines, ditches, etc.) to determine if liquids other than storm water are being discharged from these devices. This should be done during dry

weather when storm water discharge is not occurring. The evaluation should cover sewer inlets and floor drains to determine which inlets/drains are connected to sanitary sewer lines, storm sewer lines, or septic tanks/drain fields. Appropriate methods such as dye or smoke testing or video imaging should be used to determine the source of discharges. Discharge of non-storm water (such as sanitary sewer or floor drain connections to storm sewers) is not authorized by this permit. Before such discharge may continue, authorization under an appropriate discharge permit must be obtained.

4.5 Storm Water Controls.

The permittee shall develop, describe, prioritize, and implement appropriate control measures for the permitted site, as required in Section 4.0. The description of the control measures shall address the following minimum components, including a schedule for implementing the control measures:

1. Control Measures. Describe appropriate control measures including structural and non-structural control measures that will be used at the facility to minimize or eliminate pollution of storm water at the site. The description must include an objective for each control measure and a description of how to evaluate proper functioning and any maintenance requirements of the control measure. Control measures should target materials and pollutant sources. The following general categories of control measures shall be considered and incorporated as appropriate into the plan if materials are exposed to storm water on-site:
 - a. Source reduction: Reduce or eliminate the materials that are exposed to storm water. Materials management practices should be evaluated to determine if and how exposed materials can be reduced or eliminated. This can include clean-up of old equipment yards, periodic checking of dust control equipment to ensure there is no accumulation of dust in the area, removal and treatment of petroleum contaminated soil, consolidation of materials from many different areas into one area, and training employees regarding proper handling and disposal of materials. Materials may also be moved indoors or covered with a tarp or structure to eliminate contact with precipitation.
 - b. Diversion: Divert storm water drainage away from exposed materials through use of curbing, berms, sewers, or other forms of drainage control or elevate exposed significant material above surrounding drainage.
 - c. Treatment: Where contact of storm water with materials is unavoidable, the permittee shall use treatment devices to reduce the concentration and amount of pollutants in the discharged storm water. Such devices include but are not limited to oil/water separators, storm water detention/retention ponds, and vegetated swales.

2. **Good Housekeeping.** Good housekeeping requires maintaining in a clean orderly manner any areas that may contribute pollutants to storm water discharges. A maintenance schedule shall be developed for these areas.
3. **Preventive Maintenance.** A preventive maintenance program must require regular inspections and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins, etc.) and testing facility equipment and systems to uncover and prevent conditions that could cause breakdowns or failures (such as hydraulic leaks, torn bag-house filters, etc.) resulting in discharges of pollutants to surface waters.
4. **Spill Prevention and Response Procedures.** The plan shall clearly identify areas with potential for spills that can contribute pollutants to storm water discharges, and their accompanying drainage points. Where appropriate, the plan should specify material handling procedures, storage requirements, and use of equipment such as diversion valves. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The equipment necessary to implement a clean-up shall be available to personnel. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of chemicals can be isolated and contained. Sampling of discharges may also be required as a result of a spill. Required reporting and emergency procedures shall be included with the SWPPP.
5. **Employee Training.** All personnel shall be trained on their role in implementing activities identified in the plan. Training should address topics such as spill response, good housekeeping, material management practices, truck wash out procedures, and equipment washdown procedures. The plan shall identify periodic dates for such training. Contractor or temporary personnel shall also be informed of facility operation and design features in order to prevent discharges or spills from occurring.
6. **Recordkeeping Procedures.** The plan shall include a description of incidents (such as spills or other discharges) and any other information describing the quality and quantity of storm water discharges. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.
7. **Potential Exposures.** The plan shall identify areas that have a high potential for significant soil erosion due to topography, contamination from activities or storage, or other factors. The plan must also identify the structural, vegetative, or other measures used to reduce or eliminate contamination of storm water.

4.6 Additional Requirements for Discharges to Municipal Storm Sewer Systems.

1. Facilities discharging into any municipal separate storm sewer system (MS4) may also have to comply with additional requirements, as outlined within a municipal operator's storm water management program or ordinance.

2. Any permittee that discharges storm water into a municipal separate storm sewer system shall make the pollution prevention plan available to the municipality upon request.

5.0 MONITORING REQUIREMENTS

5.1 Monitoring.

1. Sampling and testing of storm water shall be performed in accordance with the EPA industrial storm water sampling guide at http://www.epa.gov/npdes/pubs/msgp_monitoring_guide.pdf, except where there are conflicts with this permit.
2. When a facility is unable to collect a sample due to adverse climatic conditions (e.g., local flooding, high winds, tornadoes, electrical storms, extended frozen conditions, etc.), the facility must include a description of why samples could not be taken. The permittee may use this sampling waiver only once during a two-year period.
3. Sampling must be conducted within 24 hours of a storm event greater than 2 inches or snowmelt large enough to cause runoff.
4. Sampling and testing of storm water for specific parameters is required at least once during the first year of coverage under the general permit, with additional semiannual monitoring for facilities with coal pile runoff. Sampling results shall be reported on a copy of the form in Attachment G. The Secretary reserves the right to require further sampling and testing, on a case-by-case basis, in the event there is reason to suspect that compliance with the SWPPP is a problem, or to measure the effectiveness of the control measures in removing pollutants in the effluent.
5. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity and must be conducted according to test procedures approved under 40 CFR Section 136 (adopted by reference in ARSD 74:51:01:22).
6. Any discharge of storm water associated with industrial activity from coal pile runoff shall be addressed in accordance with the following provisions:
 - a. The facility is required to collect and analyze at least one sample of a storm water runoff event semi-annually for the following:

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease, mg/L	Daily Maximum	Grab
pH (standard units)	Daily Maximum	Instantaneous
Total Suspended Solids, mg/L	Daily Maximum	Grab
Total Recoverable Copper, mg/L	Daily Maximum	Grab
Total Recoverable Nickel, mg/L	Daily Maximum	Grab
Total Recoverable Zinc, mg/L	Daily Maximum	Grab

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7. Sampling shall be conducted for the parameters applicable to the industry type as set forth below:

- a. **Air Transportation Facilities** (SIC beginning 45; NAICS beginning 481, and NAICS 487990, 488190, 488119, 492110, 561720, 621910) that are involved in vehicle maintenance (mechanical repairs, painting, fueling, lubrication, etc.):

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease	Presence or Absence of Sheen	Visual ¹
Oil and Grease, mg/L ²	Daily Maximum	Grab if Oil is Observed
5-day Biochemical Oxygen Demand, mg/L	Daily Maximum	Grab
Visible Pollutants	Presence or Absence of Visible Pollutants	Visual

¹ The presence or absence of an oil sheen shall be visually monitored. In the event that an oil sheen or floating oil is observed during discharge, a grab sample for Total Petroleum Hydrocarbons shall be taken immediately, analyzed, and reported.

² Use Standard Methods 1664A – hexane extraction.

- b. **Food Manufacturing** (SIC beginning 20; NAICS beginning 311):

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease	Presence or Absence of Sheen	Visual ¹
Oil and Grease, mg/L ²	Daily Maximum	Grab if Oil is Observed
5-day Biochemical Oxygen Demand, mg/L	Daily Maximum	Grab
Total Suspended Solids, mg/L	Daily Maximum	Grab

¹ The presence or absence of an oil sheen shall be visually monitored. In the event that an oil sheen or floating oil is observed during discharge, a grab sample for Oil and Grease shall be taken immediately, analyzed, and reported.

² Use Standard Methods 1664A – hexane extraction.

- c. **Lumber and wood products except furniture** (SIC beginning 24; NAICS 113310 or beginning 321):

Effluent Characteristic	Reporting Values	Sample Type
5-day Biochemical Oxygen Demand, mg/L	Daily Maximum	Grab

Effluent Characteristic	Reporting Values	Sample Type
Total Suspended Solids, mg/L	Daily Maximum	Grab
Visible Pollutants	Presence or Absence of Visible Pollutants	Visual

- d. **Scrap Yards and Metal Salvage** (SIC 5015 and 5093; NAICS 421140, 441310, or 421930):

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease	Presence or Absence of Sheen	Visual ¹
Oil and Grease, mg/L ²	Daily Maximum	Grab
Total Suspended Solids, mg/L	Daily Maximum	Grab

¹ The presence or absence of an oil sheen shall be visually monitored. In the event that an oil sheen or floating oil is observed during discharge, a grab sample for Oil and Grease shall be taken immediately, analyzed, and reported.

² Use Standard Methods 1664A – hexane extraction.

- e. **Landfills** (SIC 4953; NAICS 562211, 562212, 562213, 562219, and 562920):

Effluent Characteristic	Reporting Values	Sample Type
pH ¹	Daily Maximum; Daily Minimum	Instantaneous
Five-Day Biochemical Oxygen Demand (BOD ₅), mg/L	Daily Maximum	Grab
Total Suspended Solids, mg/L	Daily Maximum	Grab

¹ pH is to be taken within 15 minutes of sample collection with a pH meter. The pH meter must be capable of simultaneous calibration to two points on the pH scale that bracket the expected pH and are approximately three standard units apart. The pH meter must read to 0.01 standard units and be equipped with temperature compensation adjustment.

- f. **Ethanol Manufacturing and similar Industrial Organic Chemical Manufacturing**, (SIC 2869):

Effluent Characteristic	Reporting Values	Sample Type
pH ¹	Daily Maximum; Daily Minimum	Instantaneous

¹ pH is to be taken within 15 minutes of sample collection with a pH meter. The pH meter must be capable of simultaneous calibration to two points on the pH scale that bracket the expected pH and are approximately three standard units apart. The pH

Effluent Characteristic	Reporting Values	Sample Type
Oil and Grease	Presence or Absence of Sheen	Visual ²
Oil and Grease, mg/L ³	Daily Maximum	Grab
Five-Day Biochemical Oxygen Demand (BOD ₅), mg/L	Daily Maximum	Grab
Total Suspended Solids, mg/L	Daily Maximum	Grab
Visible Pollutants	Presence or Absence of Visible Pollutants, Discoloration, Etc.	Visual

meter must read to 0.01 standard units and be equipped with temperature compensation adjustment.

² The presence or absence of an oil sheen shall be visually monitored. In the event that an oil sheen or floating oil is observed during discharge, a grab sample for Oil and Grease shall be taken immediately, analyzed, and reported.

³ Use Standard Methods 1664A – hexane extraction.

8. If the sample results show pollutant levels that could cause or contribute to exceedances of water quality standards, the SWPPP must be modified to prevent future occurrences.
9. Sample results along with the facility's industrial category must be submitted to the address in section 5.3.
10. If storm water from a containment structure (pond, secondary containment, etc.) needs to be discharged, monitoring shall be performed in accordance with section 5.1 of this permit.

5.2 Retention of Records.

1. If the No Exposure exemption has been approved, a copy of the No Exposure Certification form and approval letter must be made available.
2. The permittee shall retain records of the SWPPP, a copy of the general permit, SDDENR's letter granting coverage under this general permit, inspection records, all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this general permit, and records of all data used to complete the application for this general permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application.

Records of monitoring information shall include:

- a. The date and exact place and time of sampling or measurements;

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- b. The initials or name(s) of the individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The initials or name(s) of the individual(s) who performed the analyses;
 - e. References and written procedures, when available, for the analytical techniques or methods used;
 - f. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results;
 - g. The date and duration of the storm event sampled;
 - h. An estimate of the amount of rainfall;
 - i. The number of days since the last measurable rain event; and
 - j. The estimated total volume discharged at that outfall during the monitored event.
3. All reports and documents required by this general permit shall, upon request of the Secretary, be submitted to the South Dakota Department of Environment and Natural Resources at the address in Section 5.3.

5.3 Reporting of Monitoring Results

Effluent monitoring results obtained during the permit period shall be submitted to SDDENR within one month of the end of the year the samples were taken. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with Section 6.8.3 and submitted to the Secretary at the following address:

Department of Environment & Natural Resources
Surface Water Quality
PMB 2020
Joe Foss Building
523 East Capitol
Pierre SD 57501-3182

6.0 STANDARD PERMIT CONDITIONS

6.1 Duty to Comply.

1. The permittee shall comply with all conditions of this general permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and the federal Clean Water Act and is grounds for enforcement action; for termination of permit coverage, revocation and reissuance, or modification; or for denial of a permit renewal. The permittee shall give the Secretary advance notice of any planned changes at the permitted facility or of an activity that may result in permit noncompliance.
2. Any person who violates a permit condition or makes any false statement, representation, or certification, may be subject to enforcement action under South Dakota Codified Law (SDCL), Chapter 34A-2.
3. The permittee is responsible for complying with all local ordinances and requirements. Local governments may have additional or more stringent requirements than those included in this general permit.

6.2 Continuation of the Expired General Permit.

1. An expired general permit continues in full force and effect until a new general permit is issued. Coverage under the continued general permit will be issued to new applicants submitting a NOI in compliance with Section 2.6. Any permittee already covered under the general permit at the time of expiration will continue to have coverage until a new general permit is issued.
2. To obtain coverage under the new general permit, a Notice of Intent for Reauthorization and Certification of Applicant must be submitted in accordance with information provided with the renewal notice. Upon the effective date of the new general permit, the existing general permit will be terminated.

6.3 Need to Halt or Reduce Activity Not a Defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.

6.4 Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this general permit which has a reasonable likelihood of adversely affecting human health or the environment.

6.5 Removed Substances

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from

entering any waters of the state or creating a health hazard in accordance with applicable requirements of SDCL 34A-2, -6, and -11.

6.6 Duty to Provide Information.

1. The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine if cause exists for modifying, revoking and reissuing, or terminating this general permit, or to determine compliance with this general permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this general permit.
2. The permittee shall make the SWPPP available upon request to the Secretary, EPA, and, in the case of storm water that discharges through a municipal separate storm sewer system, to the operator of the municipal system.

6.7 Other Information.

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Secretary, he or she shall promptly submit such facts or information.

6.8 Signatory Requirements.

All Notices of Intent and Termination, plans, reports, certifications, or information submitted to the Secretary shall be signed and certified.

1. All Notices of Intent and Termination shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the general permit and other information requested by the Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Secretary. The authorization shall specify either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company.
 - b. If an authorization under this section is no longer accurate because a different operator has responsibility for the overall operation of the

industrial site, a new letter of authorization satisfying the requirements of this section must be submitted to the Secretary prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

3. The following certification statement must be included with any documents signed under this section:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

6.9 Oil and Hazardous Substance Liability.

Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the federal Clean Water Act.

6.10 Property Rights.

The Secretary's issuance of this general permit does not convey any property rights of any sort, any exclusive privileges, any authorization to damage, injure or use any private property, any authority to invade personal rights, any authority to violate federal, state or local laws or regulations, or any taking, condemnation or use of eminent domain against any property owned by third parties. The State does not warrant that the permittee's compliance with this general permit and operation under this general permit will not cause damage, injury or use of private property, an invasion of personal rights, or violation of federal, state or local laws or regulations. The permittee is solely and severably liable for all damage, injury or use of private property, invasion of personal rights, infringement of federal, state, or local laws and regulations, or taking or condemnation of property owned by third parties which may result from actions taken under the general permit.

6.11 Severability.

Any portion of this general permit that is found to be void, or is challenged, shall not affect the validity of the various permit requirements that are not void or challenged.

6.12 Requiring an Individual Permit or an Alternative General Permit.

The Secretary may either deny coverage or require any person requesting coverage under the general permit to apply for, and obtain, an individual Surface Water Discharge permit

or coverage under an alternative general permit. Cases where an individual permit may be required include the following:

1. The permittee is not in compliance with the conditions of the general permit;
2. A change has occurred in the availability of demonstrated technologies or practices for the control or abatement of pollutants applicable to industrial sites;
3. Effluent limitation guidelines are promulgated for point sources covered by this general permit;
4. A TMDL is developed and implemented for a waterbody into which the industry discharges, and the plan is not modified to meet the waste load allocations; or
5. The discharge is a significant contributor of pollution to waters of the state or it presents a health hazard.

6.13 Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all systems of treatment and control that are used to achieve compliance with the conditions of this general permit. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the general permit.

6.14 Inspection and Entry.

The permittee shall allow the Secretary, the EPA Regional Administrator, or the operator of a municipal separate storm sewer system receiving discharges from the site, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this general permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this general permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the South Dakota Water Pollution Control Act (SDCL 34A-2), any substances or parameters at any location.

6.15 Permit Actions.

This general permit may be modified, revoked and reissued, or terminated by the Secretary for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

ATTACHMENT A

Notice of Intent



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF INTENT (NOI)

to Obtain Coverage Under the SWD General Permit for Storm Water Discharges Associated with Industrial Activities

Return to: SD Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 or 1-800-SDSTORM

PLEASE PRINT OR TYPE

I. Applicant Information

Name _____ Phone _____
Responsible Contact Person _____
Street _____
City _____ State _____ Zip Code _____

II. Facility/Site Information:

Name _____ Phone _____
Responsible Contact Person _____
Street _____
City _____ State _____ Zip Code _____

III. Type of Ownership: [] Private [] Federal
[] State [] Public (Other than Federal or State)

III. Type of Permit Requested: Check (X) the appropriate response:

[] Industrial Activity [] Sand/Gravel Mining Activity [] Construction Activity

IV. Pollution Prevention Plan

A. Has the Pollution Prevention Plan been developed as required? Yes [] No []

If No, when will it be developed? _____

Please note: The plan must be developed before permit coverage begins

B. Please include a brief description of best management practices (pollution control measures) being used at the facility/site:

FOR DENR USE ONLY

Postmark Date: _____ Permit Number: _____ Date Permitted: _____

V. Facility/Site Location:

- A. Quarter _____ Section _____ Township _____ Range _____
County _____ [If available: Latitude _____ Longitude _____]
- B. Site/Project Name: _____
- C. What is the **total** area covered by the site (in acres) _____

VI. Receiving Waters:

Please list all possible receiving waters of the storm water discharge (if discharging to a Municipal Storm Sewer, indicate which municipality and the ultimate receiving water):

VII. Nature of Discharge

- A. **Standard Industrial Classification (SIC) codes of this facility** (Include at least one, and up to four, SIC or 6-digit North American Industry Classification (NAIC) codes which best describe the facility. For example, the SIC Code for a sand/gravel pit is **1442**. For construction activities, no codes are assigned; therefore, indicate **CO**):

- B. Please include a brief description of the activities conducted at this facility or construction site:

VIII. Operational History (Industrial Only) Construction Project History (Construction or sand/gravel mining)

Date Constructed: _____ Project Start Date (MM/DD/YY): _____
 Operational Start-up: _____ Estimated Area of Total Disturbance (in acres): _____
 Estimated Completion Date (MM/DD/YY): _____

IX. Existing Environmental Permits

Please check (X) all other Environmental Permits which are held by this facility/activity. Include permit numbers in the space provided:

- SWD or NPDES (Discharges to Surface Water) _____
- UIC (Underground Injection of Fluids) _____
- RCRA (Hazardous Wastes) _____

- PSD (Air Emissions from Proposed Sources) _____
- Other (please specify) _____

X. Certification (Authorized representative should *initial* the box)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including revocation of the permit and the possibility of fine and imprisonment for knowing violations. In addition, I certify that I am aware of the terms and conditions of the General Storm Water permit and I agree to comply with those requirements.

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**

ATTACHMENT B

Notice of Termination



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF TERMINATION (NOT)
of Coverage Under the SWD General Permit for
Storm Water Discharges Associated with Industrial or Construction Activities

This form is required to be submitted when a discharge permit is no longer required or necessary. Submission of this form shall in no way relieve the permittee of permit obligations required prior to submission of this form. Please submit this form to the following address:

original to: SD Department of Environment and Natural Resources
Surface Water Quality Program
PMB 2020
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 or 1-800-SDSTORM

PLEASE PRINT OR TYPE

I. Applicant/Owner Information

Name _____ Phone _____
Street _____
City _____ State _____ Zip Code _____

II. Facility/Site Information

Name _____ Phone _____
Responsible Contact Person _____
Street _____
City _____
State _____ County _____ Zip Code _____

III. Permit Number: _____ Site/Project Name: _____

IV. Check the reason for termination of permit coverage:

- Storm Water Discharge associated with permitted activity is no longer occurring. If construction, has the area been restabilized? Please explain:
You are no longer the operator of the facility/site. Please explain:

I certify under penalty of law that all storm water discharges associated with industrial or construction activity from the identified facility that are authorized by a SWD general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting the Notice of Termination, I am no longer authorized to discharge storm water associated with industrial or construction activity under this general permit, and that discharging pollutants in storm water associated with industrial or construction activity to waters of the state is

unlawful under the federal Clean Water Act, where the discharge is not authorized by a SWD permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the South Dakota Water Pollution Control Act. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NOTE: NOT must be signed by the authorized chief elective or executive officer of the applicant, or by the applicant, if an individual.

Name (print) _____ Title _____

Signature _____ Date _____

FOR DENR USE ONLY

Permit Number: _____ Postmark Date: _____ Date Terminated: _____

ATTACHMENT C

List of Standard Industrial Classification Codes

The **Standard Industrial Classification (SIC) Code(s)** for a facility usually determines if general permit coverage is required. The 4-digit SIC Codes are assigned according to the primary activities performed by a company. They are often assigned for insurance purposes or when a business registers as a corporation. Industries can also determine their SIC Code by checking with their trade association, Chamber of Commerce, legal counsel, or library for the SIC Manual.

The industrial categories requiring storm water permit coverage are listed here by their SIC Code. The manufacturing industries are generally represented by SIC Codes 20-39. (A two-digit code, such as 42, means that **all** industries under that heading, from 4200 to 4299, are covered. Some common SIC codes are listed in italics.)

Below is a list of Industrial Facilities that are required to obtain a storm water discharge permit.

SIC Code	Industry Type	Notes
10	Metal mining and milling	
1041	Gold Ores	
12	Coal mining	
13	Oil and gas extraction	
20	Food and kindred products	
2041	Flour and Other Grain Mill Products	
2048	Prepared feed and feed ingredients for animals & fowl, except cats & dogs	
21	Tobacco products	
22	Textile mills	
23	Apparel and other finished products made from fabric and similar material	
24	Lumber and wood products except furniture	
2421	Sawmills & Planing Mills	
2491	Wood Preserving	
25	Furniture and fixtures	
26	Paper and allied products	
27	Printing, publishing, and allied products	
28	Chemicals and allied products	
29	Petroleum refining and related industries	
2951	Asphalt Paving Mixtures and Blocks	
30	Rubber and miscellaneous plastics products	
31	Leather Products	
<i>3111</i>	Leather tanning and finishing	
32	Stone, clay, glass and concrete products	
<i>3273</i>	Ready mix concrete facilities	
33	Primary metals industries	
34	Fabrication of metal products, except machinery and transportation equipment	
35	Industrial and commercial machinery and computer equipment	
36	Electronic and other electrical equipment and components, except computer equipment	

SIC Code	Industry Type	Notes
37	Transportation equipment	
3715	Truck Trailers	
38	Measuring, analyzing, and controlling instruments: photographic, medical, and optical goods, watches and clocks	
39	Miscellaneous manufacturing industries	
40	Railroad transportation	(a)
41	Local and suburban transit and interurban highway passenger transportation	(a)
42	Motor freight transportation and warehousing (except)	(a)
	4221 Farm Product warehousing and storage	
	4222 Refrigerated warehousing and storage	
	4225 General warehousing and storage	
43	US Postal Facilities	(a)
44	Water Transportation	(a)
45	Transportation by Air	(a)
4911	Steam electric power generation (all fuel types)	
4952	Wastewater treatment facilities with a design flow of 1.0 MGD or more	
4953	Hazardous waste treatment, storage or disposal facilities; incinerators (including boilers and industrial furnaces) that burn hazardous waste; and active or inactive landfills, land application sites, or open dumps with industrial waste and without a stabilized final cover	
5015	Motor vehicle parts, used	
5093	Scrap and waste materials	
5171	Petroleum bulk stations and terminals	(a)

Notes:

- (a) In this SIC Code, only facilities that are involved in vehicle maintenance (such as vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport deicing need a storm water permit.

ATTACHMENT D
No Exposure Certification



NO EXPOSURE CERTIFICATION for Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

Activities that take place at industrial facilities are often exposed to storm water, and runoff from these sites has the potential to discharge pollutants into nearby storm sewer systems and surface waters, and may adversely impact water quality. In an attempt to limit the amount of pollutants in those discharges, the U.S. Environmental Protection Agency (EPA) developed a federal program to regulate certain storm water discharges, particularly those associated with industrial activity.

The federal storm water regulations identify eleven categories of industrial activity that must obtain a storm water permit. The industrial categories are listed either by reference to a Standard Industrial Classification (SIC) code, a North American Industry Classification (NAIC) code, or by a short narrative description of the activity at the industrial site.

The regulations provide an exemption from the storm water permitting requirements for those facilities whose industrial materials or activities are not exposed to precipitation or runoff. If there is **no exposure** to storm water at an industrial facility, then a storm water permit is not required for that facility.

Industrial facilities wishing to be conditionally excluded from permitting requirements must submit a certification form to the South Dakota Department of Environment and Natural Resources (DENR). By submitting this form, the facility is certifying there is a condition of no exposure to storm water at the site. The form must be signed by an executive officer or owner of the facility/corporation.

There is no exposure at an industrial facility when all industrial materials and activities are protected to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities such as material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products must be protected by a storm resistant shelter. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- ◆ drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. "Sealed" means banded or otherwise secured and without operational taps or valves;
- ◆ adequately maintained vehicles used in material handling; and
- ◆ final products, other than products that would be mobilized in storm water discharges (e.g., rock salt).

A No Exposure Certification form must be provided for each facility that wishes to be conditionally excluded from the permitting requirements. The exemption from storm water permitting is available on a facility-wide basis only, not for individual outfalls or points of runoff. If any industrial activities or materials are or will be exposed to precipitation, the entire facility is not eligible for the no exposure exemption. If changes at a facility result in industrial activities or materials becoming exposed to storm water, the no exposure exemption no longer applies. If DENR determines that a facility's storm water discharges have a reasonable potential to cause or contribute to a violation of applicable water quality standards, the no exposure exemption can be denied.

Please feel free to contact the SD Department of Environment and Natural Resources with any questions or comments regarding the No Exposure exemption and/or the Storm Water Program at 1-800-SDSTORM (737-8676).

Detailed instructions for completing this form and obtaining the no exposure exemption are included with the form.



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

**STORM WATER
NO EXPOSURE CERTIFICATION**

For Exclusion from Permitting Requirements for Storm Water Discharges
Associated with Industrial Activities Under the Surface Water Discharge Program

One **original copy** of this form shall be submitted to:

SD Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 or 1-800-SDSTORM

Upon request, an additional copy of this form must be mailed to the municipality within which the facility is located, or county if the facility is located in an unincorporated area.

ALL INFORMATION MUST BE PROVIDED ON THIS FORM.

A. Applicant Information

1. Company Name: _____ 2. Phone: _____
3. Contact Person: a. Name: _____ b. Title: _____
4. Mailing Address: a. Street: _____
b. City: _____ c. State: _____ d. Zip Code: _____
5. The applicant requesting a conditional "No Exposure" Exclusion is: Owner Operator

B. Facility/Site Location Information

1. Facility Name: _____ 2. Phone _____
3. a. Street Address: _____
b. City: _____ c. County: _____ d. State: _____ e. Zip Code: _____
4. Type of ownership: Federal State Private Public (other than Federal or State)
5. a: Latitude: _____ b: Longitude: _____
6. a: Quarter: _____ b: Section: _____ c: Township: _____ d: Range: _____

7. a: Was the facility or site previously covered under a storm water permit? Yes No
- b: If yes, enter permit number: _____
8. SIC/NAICS Activity Codes: a: Primary: _____ b: Secondary (if applicable): _____
9. Please describe the industrial activities which take place at this site. _____

10. Total size of site associated with industrial activity: _____ acres
11. a. Have you paved or roofed over a formerly exposed, pervious area in order to qualify for the no exposure exemption? Yes No
- b. If yes, please indicate approximately how much area was paved or roofed over. Completing this question does not disqualify you for the no exposure exemption. However, DENR may use this information in considering whether storm water discharges from your site are likely to have an adverse impact on water quality, in which case you could be required to obtain permit coverage.
 Less than one acre One to five acres More than five acres
12. a. Does the storm water from this facility enter a Municipal Separate Storm Sewer System?
 Yes No
- b. If yes, name of Municipal Separate Storm Sewer System

13. a. Does the storm water from this facility enter a natural surface drainage? Yes No
- c. If yes, name or description of the receiving water(s):

C. Exposure Checklist

Please respond to the following questions by checking either “Yes” or “No” in the appropriate box. Additional information to assist in answering these questions is included in the instructions.

Yes No

1. Is there now, or in the foreseeable future, any use, storage or cleaning of industrial machinery or equipment where storm water exposure can occur; or, are there areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water?
2. Are there now, or in the foreseeable future, any materials or residuals, including spills/leaks, on the ground or within the storm water collection system or inlets that are exposed to storm water?
3. Are there now, or in the foreseeable future, any materials or products from past industrial activity

exposed to storm water?

4. Is there now, or in the foreseeable future, any material handling equipment (except adequately maintained vehicles) that is exposed to storm water?
5. Are there now, or in the foreseeable future, any materials or products that are exposed to storm water during loading, unloading or transporting activities?
6. Are there now, or in the foreseeable future, any materials or products stored outdoors (except final products intended for outside use where exposure does not result in the discharge of pollutants)?
7. Are there now, or in the foreseeable future, any materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers?
8. Are there now, or in the foreseeable future, any materials or products handled/stored on roads or railways owned or maintained by the discharger that are exposed to storm water?
9. Are there now, or in the foreseeable future, any industrial waste materials (except waste in covered, non-leaking containers) that are exposed to storm water?
10. Is there now, or in the foreseeable future, any application or disposal of process wastewater exposed to storm water (unless otherwise permitted)?
11. Is there now, or in the foreseeable future, any particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the storm water outflow?

D. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of “no exposure” and obtaining an exemption from storm water SWD permitting.

I certify under penalty of law that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)).

I understand that I am obligated to submit a no exposure certification form once every five years to SDDENR and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow SDDENR, or the MS4 operator where the discharge enters into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under a storm water SWD permit prior to any point source discharge of storm water from the facility.

Additionally, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

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

Notary Public

My commission expires: _____

(SEAL)

Instructions for the NO EXPOSURE CERTIFICATION for
Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

Who May File a No Exposure Certification

Federal law at 40 CFR Part 122.26 prohibits point source discharge of storm water associated with industrial activity to waters of the state without a storm water Surface Water Discharge (SWD) permit. However, industrial activities identified at 40 CFR 122.26(b)(14)(i) through (ix) and (xi) may be conditionally excluded from storm water permitting requirements if the discharger can certify that a condition of “no exposure” exists at the industrial facility or site.

Storm water discharges from construction activities identified in 40 CFR 122.26(b)(14)(x) and (b)(15) are not eligible for the no exposure exemption.

Obtaining and Maintaining the No Exposure Exemption

This form is used to certify that a condition of no exposure exists at the industrial facility or site described herein. This certification must be re-submitted at least **once every five years**.

The industrial facility operator must maintain a condition of no exposure at its facility or site in order for the no exposure exemption to remain applicable. If conditions change resulting in the exposure of materials and activities to storm water, the facility operator must obtain coverage under a storm water permit immediately.

Where to File the No Exposure Certification Form

Mail the completed no exposure certification form to:

SD Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capitol Avenue
Pierre, SD 57501

Completing the Form

You must type or print. One form must be completed for each facility or site for which you are seeking to

certify a condition of no exposure. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the above address.

Section A. Facility Operator Information

1. Provide the legal name of the person, firm, public organization, or other entity submitting certification. The name of the applicant may or may not be the same as the name of the facility.
2. Provide the telephone number of the applicant.
3. Provide the contact person’s name and title.
4. Provide the mailing address of the operator (P.O. Box numbers may be used). Include the city, state, and zip code. **All correspondence will be sent to this address.**
5. Indicate whether the applicant is the owner and/or operator of the facility.

Instructions for the NO EXPOSURE CERTIFICATION for
Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

Section B. Facility/Site Location Information

1. Enter the official or legal name of the facility or site.
2. Enter the phone number for the facility.
3. Enter the complete street address (if no street address exists, provide a geographic description [e.g. intersection of Routes 9 and 55]), city, county, state, and zip code. Do not use a P.O. Box number.
4. Indicate the type of entity that owns/operates the industrial facility.
5. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from a US Geological Survey (USGS) quadrangle or topographic map, or from various internet mapping web pages.
6. Enter the legal description of the facility location, listed by Quarter, Section, Township and Range. Include the North, South, East, or West reference with the Township and Range.
7. Indicate whether the facility was previously covered under a SWD storm water permit. If so, include the permit number.
8. Enter the 4-digit Standard Industrial Classification (SIC) code or the 6-digit North American Industry Classification System (NAICS) which identifies the facility's primary activity. Also include a second 4-digit SIC code or 6-digit NAICS code identifying the facility's secondary activity, if applicable. These codes can be obtained from the US Census Bureau's web page <http://www.census.gov/epcd/www/naicstab.htm>
9. Please provide a description of any and all industrial activities taking place at the site now and in the foreseeable future.

10. Enter the total size of the site associated with industrial activity in acres. Acreage may be determined by dividing square footage by 43,560, as demonstrated in the following example.

Example: Convert 54,450 ft² to acres

Divide 54,450 ft² by 43,560 square feet per acre:
54,450 ft² / 43,560 ft²/acre = 1.25 acres.

11. Check "Yes" or "No" as appropriate to indicate whether you have paved or roofed over a formerly exposed, pervious area (i.e., lawn, meadow, dirt or gravel road/parking lot) in order to qualify for no exposure. If yes, also indicate approximately how much area was paved or roofed over and is now impervious area.
12. Identify the Municipal Separate Storm Sewer System (MS4) in which the non-exposed storm water enters, if applicable.
13. Identify and/or describe the receiving water(s) in which the non-exposed storm water enters, if natural surface drainage occurs.

Instructions for the NO EXPOSURE CERTIFICATION for
Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

contaminants or are not otherwise a source of industrial pollutants.

Section C. Exposure Checklist

Check “Yes” or “No” as appropriate to describe the exposure conditions at your facility. DENR will evaluate the responses to these questions in order to determine eligibility for the “No Exposure” exemption.

The following information is provided as additional information to be used in answering the questions in this Section. Paragraph numbers correspond to the questions numbers.

1. Industrial Machinery and Equipment

Industrial machinery and equipment may not be stored where exposed to storm water. In addition, areas with residuals from using or storing or cleaning industrial machinery or equipment must not remain and be exposed to storm water. The following exceptions are allowed:

- a. Drums, barrels, tanks, and similar containers intended for the outdoor storage of the contained material or previously contained material. These must be tightly sealed (“sealed” means banded or otherwise secured and without operational taps or valves), and cannot be deteriorated or leaking, and are not otherwise a sources of pollutants. The addition of material to or withdrawing of material from these containers while outside is deemed exposure, and as such, not allowed under the exemption provisions. Containers, racks and other transport platforms used with the drums, barrels, etc., can be stored outside providing they are contaminant-free.
- b. Adequately maintained vehicles used in material handling may be exposed to storm water. This also includes vehicles such as trucks, automobiles, forklifts, pallet jacks, carts, dollies, or other such general-purpose vehicles at the industrial site that are not industrial machinery, and that are not leaking

2. Materials and Residuals

Industrial materials and residuals may not exist on the ground or within the storm water collection system (i.e. storm water inlets and storm sewers). Residuals include any material that may be mobilized by storm water, such as oil and chemical stains, and contaminated soils.

3. Industrial Waste Material

Industrial waste material, like other industrial materials, may not be stored where exposed to storm water. However, if the material is stored in a sealed container, such as those allowed for Question 1 or in a covered, non-leaking container such as a lidded dumpster, that does not allow exposure to storm water, outdoor storage is allowed.

Lidded dumpsters must be completely covered and materials must not be allowed to drain from any holes in the bottom, or be lost in loading onto a garbage truck. Industrial refuse and trash that is stored uncovered is considered exposed.

Instructions for the NO EXPOSURE CERTIFICATION for
Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

Waste materials that are not related to an industrial activity, such as office supplies and cafeteria wastes, are not included in the definition of industrial waste materials, and although such wastes should be managed to prevent water quality impacts, are not included in this certification.

authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

Section D. Certification Statement

State statutes provide for severe penalties for submitting false information on this application form. State regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

- (i) *president, secretary, treasurer, or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy or decision making functions for the corporation, or*
- (ii) *the manager of one or more manufacturing, production, or operation facilities, provided the manager is*

For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

This certification must be signed in the presence of a certified notary public.

ATTACHMENT E
Temporary Shutdown Form



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

TEMPORARY SHUTDOWN NOTICE

for Coverage Under the SWD General Permit for
Storm Water Discharges Associated with Industrial Activities

General Permit Number: _____
Company/Operator Name: _____
Contact Person: _____
Email Address: _____
Mailing Address: _____
Facility Address: _____
Latitude, Longitude: _____
Storm Water Receiving Waters: _____
Municipal Storm Sewer/City: _____

Please attach a brief description of actions taken to prevent impacts to storm water during the temporary shutdown.

Send to: Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capitol
Pierre, SD 57501-3182

**** NOTE: Any change in location and/or operation requires that the facility's Storm Water Pollution Prevention Plan be updated and revised to reflect all operational changes.**

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

NOTE: The Temporary Shutdown Form must be signed by the authorized chief elective, an executive officer, or a corporate responsible official of the applicant, or by the applicant, if an individual. *I declare and affirm under the penalties of perjury that this certification has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.*

Name (print) _____
Title _____
Signature _____
Date _____

PLEASE ATTACH SHEET DISCLOSING ALL FACTS 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.

ATTACHMENT F

Transfer of Ownership



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

TRANSFER OF OWNERSHIP

for Coverage Under the SWD General Permit for
Storm Water Discharges Associated with Industrial Activities

General Permit Number: _____

Company/Operator Name: _____

Contact Person: _____

Email Address: _____

Mailing Address: _____

Facility Address: _____

Latitude, Longitude: _____

Storm Water Receiving Waters: _____

Municipal Storm Sewer/City: _____

Please include a brief description of activities conducted at the site, noting any changes:

Date transfer of permit responsibility, coverage, and liability becomes effective*: _____

*Include the written agreement between the two facilities which includes this date.

Send to: Department of Environment & Natural Resources
Surface Water Quality
PMB 2020
Joe Foss Building
523 East Capitol
Pierre SD 57501-3182

**** NOTE: Any change in location and/or operation requires that the facility's Storm Water Pollution Prevention Plan be updated and revised to reflect all operational changes.**

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

South Dakota Codified Law Section 1-40-27 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."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

NOTE: The Notice of Intent must be signed by the authorized chief elective, an executive officer, or a corporate responsible official of the applicant, or by the applicant, if an individual.

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____ .

New Owner/Operator (print)

New Owner/Operator (signature)

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

Notary Public (signature)

My commission expires: _____

(SEAL)

PREVIOUS OWNER/OPERATOR

Dated this _____ day of _____, 20____ .

Previous Owner/Operator (print)

Previous Owner/Operator (signature)

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

ATTACHMENT G

Monitoring Report

DISCHARGE MONITORING SUMMARY FORM

This form shall be used to summarize effluent monitoring information for discharges under this permit.

Permit Name: _____ Outfall Number: _____

Permit No.: _____

Address: _____

Facility Contact: _____ Phone: _____

Facility SIC and/or NAICS code: _____ Approximate inches of rainfall/snow melt: _____

Date and time of sample: _____

Describe any adverse effects, such as fish kills, etc. (if any): _____

If there is a visible change to the storm water, was there a visible change to the receiving waters? Describe the changes. _____

ANALYTICAL RESULTS, ADD IN NAMES OF PARAMETERS MEASURED FOR AND RESULTS

If more space is required, attach results.

Parameter	Sample 1	Sample 2	Sample 3	Sample 4

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name (print): _____ Title: _____

Signature: _____ Date: _____

If the facility feels there is any other relevant information or any facts that are relevant to the sampling, attach it to this report. All information will be considered.

Amended: August 27, 2012 Effective: October 1, 2012
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ATTACHMENT H

Permit Reauthorization Form

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF INTENT (NOI) for REAUTHORIZATION
of Coverage Under the SWD General Permit for Storm Water
Discharges Associated With Industrial Activities

The following facility currently has coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities. *This form must be submitted if you wish to continue coverage under the General Permit.* Submission of this form shall in no way relieve the permittee of permit obligations required prior to submission of this form. Please submit this form to the following address:

original to: SD Department of Environment and Natural Resources
Surface Water Quality Program
PMB 2020
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351

PLEASE PRINT OR TYPE (Update Information below as needed)

I. Permittee Information

Permittee Name: _____
Company Name: _____
Mailing Address: _____
City: _____ County: _____ State: _____ Zip Code: _____

II. Facility Information

Facility Name: _____
Facility Contact: _____
Facility Description: _____

III. Permit Number: _____

IV. Signature of Applicant

By signing this form, you are requesting to continue permit coverage under the reissued General Permit. You are certifying you will comply with the new General Permit and update your Storm Water Pollution Prevention Plan if necessary to meet the reissued General Permit conditions.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including revocation of the permit and the possibility of fine and imprisonment for knowing violations. In addition, I certify that I am aware of the terms and conditions of the General Storm Water permit and I agree to comply with those requirements.

NOTE: NOI must be signed by the authorized chief elective or executive officer of the applicant, or by the applicant, if an individual.

Name (print) _____ Title _____

Signature _____ Date _____