

**BOARD OF MINERALS AND ENVIRONMENT
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES**

Permit Number: GPCD 23-02

**GENERAL PERMIT FOR CONSTRUCTION AND DEMOLITION
DEBRIS (C&D) DISPOSAL FACILITIES UNDER THE
SOUTH DAKOTA WASTE MANAGEMENT PROGRAM**

South Dakota Codified Law (SDCL) 34A-6-1.6 authorizes the Board of Minerals and Environment (Board) to adopt rules relating to the issuance, renewal, revocation or suspension of solid waste facility permits. SDCL 34A-6-58 authorizes the Secretary of the Department of Agriculture and Natural Resources (DANR) to recommend that the Board issue general permits for certain categories of solid waste facilities.

This general permit authorizes the construction and operation of a construction and demolition debris disposal facility within the State of South Dakota, subject to compliance with all conditions set forth in this general permit. If any of the conditions of this general permit are not met, the operator may be required to apply for and obtain an individual solid waste permit as specified in SDCL 34A-6-58 and the Administrative Rules of South Dakota (ARSD) 74:27:10:06. In addition, the operator may be subject to civil penalties set forth in SDCL 34A-6-1.4 and 34A-6-1.31.

Pursuant to SDCL 34A-6-58, this general permit is valid until suspended, revoked or modified by the Board.

This permit is effective as of January 24, 2023, and shall expire on January 24, 2028.

Signed this 24th day of January, 2023.



Hunter Roberts, Secretary
Department of Agriculture and Natural Resources

IMPORTANT NOTICE: POSSESSION OF THIS DOCUMENT **DOES NOT** PROVE THE HOLDER IS LEGALLY AUTHORIZED TO OPERATE A CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL FACILITY.

THE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES ISSUES A CERTIFICATE AND LETTER OF AUTHORIZATION TO EACH LEGALY AUTHORIZED OPERATOR. THE CERTIFICATE AND LETTER OF AUTHORIZATION ARE LEGAL PROOF OF AUTHORIZATION TO OPERATE.

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1.0 GENERAL STATEMENTS OF LAW AND OWNER/OPERATOR RESPONSIBILITIES

1.01 Definitions

Definitions used in this permit are as follows:

- A. "ARSD," the Administrative Rules of South Dakota.
- B. "Board," the Board of Minerals and Environment.
- C. "C&D," construction and demolition debris.
- D. "DANR," the South Dakota Department of Agriculture and Natural Resources.
- E. "Emergency," a condition that the secretary finds deleterious to the public health, safety, and welfare and that requires immediate action.
- F. "Occupied Dwelling," a house or building normally occupied as a residence.
- G. "Operator," a person responsible for the overall operation of a facility or part of a facility.
- H. "SDCL," South Dakota Codified Laws.
- I. "Secretary," the secretary of the South Dakota Department of Agriculture and Natural Resources, or authorized representative.

1.02 Applicability of General Permit

This general permit is potentially applicable to operators of C&D disposal facilities in the State of South Dakota.

1.03 Severability

The provisions of this general permit are severable. If any provision of this general permit, or the application of any provision of this general permit to any circumstance, is held invalid, the application of such provisions to other circumstances and the remainder of this general permit, shall not be affected thereby.

1.04 Property Rights

This general permit does not convey any property rights of any kind, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws and ordinances.

1.05 Amendments, Revocation, and Suspension of General Permit

DANR may recommend to the Board that this general permit be amended as provided by ARSD 74:27:10:05. The Board may suspend or revoke this general permit as provided by SDCL 34A-6-1.21 and 34A-6-58.

1.06 Procedure for Requesting Authorization

To obtain authorization to operate a C&D disposal facility under the terms and conditions of this general permit, the operator must submit a request for authorization and publish a notice of intent in an official newspaper in the county in which the proposed site will be located. The request for authorization must be submitted to DANR at least 60 calendar days before the first anticipated use of the site. The notice of intent must be published at least 20 calendar days before the first anticipated use of the site. The notice of intent shall include:

- A. the name, address, and phone number of both the landowner and operator of the proposed site;
- B. the number of acres comprising the proposed site;
- C. the general location of the proposed site;
- D. the legal description (quarter, section, township, range, and county) of the proposed site;
- E. a description of the authorized wastes to be accepted and managed at the proposed site; and
- F. the estimated annual tonnage of waste materials to be accepted and managed.

If the DANR determines the request for authorization is complete and meets the terms of this general permit, DANR will issue an authorization letter and certificate approving the development and operation of the site.

1.07 Duration of Authorization

Initial authorization to operate under this general permit shall be valid for up to two years from the date of issuance and may be renewed for periods up to five years.

1.08 Duty to Renew Authorization

If the operator wishes to continue an activity regulated by this general permit, the operator must submit to DANR a complete renewal application 90 days prior to the authorization expiration date. If a renewal application is submitted 90 days prior to the date of expiration, then authorization to operate under the general permit shall remain in effect until the DANR takes final action on the renewal application, in accordance with SDCL 1-26-28. If the general permit expires prior to an authorization expiration date and if no substantive changes have taken place at the authorized site, then the authorization and expired general permit will remain in effect until such time as the authorization is issued under a new general permit.

1.09 Changes to Request for Authorization

The operator must notify DANR prior to implementing any proposed change to a C&D disposal site location, acreage, authorized waste acceptance, tonnage, or operational practice that would be different from the request for authorization initially submitted to DANR. All changes must be approved by DANR and be public noticed for at least 20 days prior to implementation.

1.10 Transfers

The authorization may be transferred to a new operator provided:

- A. the current authorized operator notifies DANR in writing at least 20 calendar days prior to the proposed transfer date;
- B. the notification to DANR includes a written agreement between the authorized and new operator containing the date of transfer of permit responsibility, coverage and liability;
- C. the notification to DANR includes written documentation demonstrating that the new operator is qualified to comply with the terms and conditions of this general permit;
- D. the new operator provides a financial assurance mechanism, if applicable, equal to that of the former operator;
- E. the new operator provides a Certification of Applicant required by SDCL 1-41-20;
- F. the transfer of site ownership/operation is public noticed for at least 20 calendar days prior to the proposed transfer date; and
- G. DANR provides written approval of the transfer.

1.11 DANR Limitation of Liability

Any letter of authorization is specifically conditioned on the truth and accuracy of the statements made by the operator in the application to operate under this general permit. DANR assumes no liability for the truth and accuracy of the statements made by the operator in the application and any other submitted documents.

1.12 Individual Permit Required

DANR may require any operator requesting coverage under this general permit to apply for and obtain an individual solid waste permit if:

- A. the operator is not or cannot operate in compliance with the conditions of this general permit;
- B. the conditions or standards change such that C&D disposal facilities no longer qualify for a general permit; or
- C. an operator is removed from the jurisdiction of this general permit as a result of a complaint and Board action according to SDCL 34A-6-58.

When an individual permit is issued to an operator otherwise authorized under this general permit, the applicability of this general permit to that operator is automatically terminated upon the effective date of the individual permit.

- 1.13 Individual Permit Requested**
Any operator authorized under this general permit may request to be excluded from the authorization by applying for an individual solid waste permit.
- 1.14 Duty to Comply – Penalties for Violations**
The operator shall construct, operate and maintain the restricted use solid waste disposal facility in accordance with SDCL 34A-6, ARSD 74:27, and the conditions of this general permit. If the provisions of the laws, rules, or any conditions of this general permit are violated, DANR may take action to suspend or revoke a general permit authorization as provided for by SDCL 34A-6-1.21; may assess a civil penalty pursuant to SDCL 34A-6-1.4 and 34A-6-1.31; or issue a notice of violation with penalties pursuant to SDCL 34A-6-1.22.
- 1.15 Stipulated Penalties**
In the event an authorized operator fails to comply with the provisions of this general permit, DANR reserves the right to develop and pursue an agreement with the operator for the assessment of stipulated penalties.
- 1.16 Related Laws, Regulations and Permits**
No provision of this general permit exempts the operator from the requirements of any local, state, or federal laws, regulations, or rules in existence or promulgated after this general permit or an authorization becomes effective. It is the responsibility of the operator to obtain any other required permits and licenses.
- 1.17 Duty to Provide Information**
The operator shall furnish DANR, within 10 business days, any information which DANR may request to determine compliance with this general permit.
- 1.18 Duty to Provide Access**
The owner/operator shall allow DANR during regular business hours:
A. to inspect or access the entire C&D disposal facility area authorized under this general permit and identified in the request for authorization;
B. to inspect any facilities, equipment, records, practices or operations regulated or required by this general permit; and
C. to sample or monitor any substances for any parameter.
- 1.19 Emergency Procedures**
The operator must notify DANR, within one business day, of any emergency situation that arises at a C&D disposal facility.
- 1.20 Need to Halt or Reduce Activity not a Defense**
DANR will not consider that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this general permit, when enforcing the conditions of this general permit.
- 1.21 Duty to Mitigate**
The operator shall take all reasonable steps to minimize or prevent any adverse effect on human health or the environment.
- 1.22 Responsibility and Liability of Owner or Operator**
In accordance with SDCL 34A-6-1.10, the owner or operator of a C&D disposal facility authorized under this general permit is responsible in perpetuity for the solid waste and liable in perpetuity for any pollution or other detrimental effect caused by the solid waste.

1.23 Administrative Changes Authorized

DANR reserves the right to incorporate administrative changes and/or modifications to this general permit. Administrative changes are authorized for the purposes of changing or correcting:

- A. typographical errors;
- B. regulatory references;
- C. titles of organizations or regulatory agencies; or
- D. similar items that do not substantially change the requirements of this general permit.

2.0 LOCATION AND DESIGN REQUIREMENTS

2.01 Facility Siting

The operator **shall not** locate the C&D disposal facility:

- A. within a wetland as defined by ARSD 74:27:07:01;
- B. within 200 feet of surface water, excluding wetlands, as defined by ARSD 74:51:01:01;
- C. within 1,000 feet of an occupied dwelling, unless the owner(s) provides written permission;
- D. within 100 feet of a property boundary, unless the adjacent property owner(s) provides written permission;
- E. within 1,000 feet of any private or public well which supplies drinking water for human consumption;
- F. where the depth to an aquifer, as defined by ARSD 74:54:02:01, is less than 10 feet;
- G. within a 100-year floodplain; or
- H. in an area that adversely affects wildlife, recreation, aesthetic value of an area, or any threatened or endangered species.

A C&D disposal site may be located in a gravel pit or quarry, with the restriction that disposal of waste is restricted to materials that are free of regulated asbestos-containing waste materials, asphalt-containing materials, petroleum products, or other materials that may pollute ground water.

Occupied dwelling exception: Any occupied dwelling constructed less than 1,000 feet from a C&D disposal site after an initial general permit authorization has been granted will not be grounds to prevent future authorization renewals under this general permit.

2.02 Access Control

The operator shall control access to the C&D disposal site through the use of fences and locked gates. In addition, the operator shall post a sign or signs at the site entrance stating the operator's name, phone number, type of facility, days/hours of operation, and acceptable waste materials. Directions for disposal should also be posted at the site entrance or within the facility boundaries.

Private C&D disposal sites not open to the public need only post a sign with the operator's name and phone number. Private sites are not subject to the following signage requirements: type of facility, days/hours of operation, acceptable waste materials, and directions for disposal.

2.03 Surface Water Control

The operator shall construct and maintain soil berms or containment structures around active disposal areas and open burning areas to divert run-on and contain runoff from a 25-year, 24-hour storm event. The berms or structures shall be adequately constructed to prevent leakage. Storm water shall be diverted away from salvageable material storage areas.

2.04 Fire Control

The operator shall maintain a minimum 25-foot fire lane around areas used for open burning.

3.0 OPERATIONAL REQUIREMENTS

3.01 Authorized and Unauthorized Wastes

The operator may accept for disposal, burning or temporary storage the waste materials listed in Table 1, in accordance with the specified requirements. The operator shall not accept for handling any of the unauthorized waste materials listed in Table 2. Any unauthorized waste found on-site must be removed from the facility and handled according to Table 2 procedures. The operator shall contact DANR to determine proper handling procedures for any waste material not clearly identified in Table 1 or 2.

3.02 Routine Inspections Required

The operator shall inspect the facility at least weekly and on all days the facility is open to the public to evaluate permit compliance and to prevent and/or detect the disposal of unauthorized wastes. The site inspections shall be documented as required by Section 4.01(b) of this general permit.

3.03 Vector Control

The operator shall prevent or control on-site populations of disease vectors (rats, rodents, mosquitoes, etc.) by using techniques appropriate for the protection of public health and for preventing degradation of the environment.

3.04 Waste Separation Required

The operator shall place materials that are to be buried in piles or trenches that are well separated from burn piles.

3.05 Soil Cover Required

Construction and demolition debris, furniture, and other inert wastes intended for burial must be covered with six inches of soil cover at least monthly. Monthly placement of six inches of soil cover is necessary to prevent blowing debris and minimize fire potential.

3.06 Open Burning Requirements

The operator may periodically open burn trees, branches, brush, and untreated wood subject to existing state and local requirements. The operator is responsible for removing waste materials other than trees, branches, brush, and untreated wood from the burn pile prior to burning. The local fire department, local law enforcement, and DANR shall be notified prior to open burning.

Open burning shall occur only:

- A. when the prevailing winds are away from adjacent residences;
- B. when smoke will not obscure visibility or create a traffic hazard on any public road; and
- C. during daylight hours.

3.07 Salvaging Allowed

The operator may allow the salvaging of waste materials for reuse or recycling, provided:

- A. salvaging is conducted in a planned manner that does not interfere with normal operation of the C&D disposal site; and
- B. salvaging does not pose a direct or deleterious threat to public health or the quality of the environment.

4.0 RECORDKEEPING AND REPORTING REQUIREMENTS

4.01 Required Records

The operator shall maintain all records required by this general permit and shall make records available to DANR as stated in ARSD 74:27:13:22. At a minimum, the records shall include:

- A. the amounts, sources, types, and dates for wastes received;
- B. documentation of the daily and/or weekly site inspections;

- C. documentation of unauthorized waste found on-site and the steps taken in response;
- D. records of any emergency conditions at the restricted use site;
- E. documentation of complaints received and responses to complaints;
- F. data on open burning activities at the site to include dates, weather conditions, and an estimate of the quantity of wood in the pile;
- G. copies of the current general permit, request for authorization, authorization letter, certificate to operate, and any other permits or licenses required by state, local, or federal laws, rules, and regulations; and
- H. documentation identifying the quantity and destination of salvaged materials removed from the site.

4.02 Maintenance of Records

The operator shall maintain all required records for a period of three years from the date the records were generated.

5.0 CLOSURE REQUIREMENTS

5.01 Closure Notification

The operator shall notify DANR of the intent to close the C&D disposal site at least 90 days prior to closure.

5.02 Startup of Closure Activities

The operator shall begin closure activities for all waste disposal areas of the facility within 30 days of receipt of the last load of waste.

5.03 Removal of Salvageable Materials

The operator shall remove all salvageable materials and unauthorized wastes prior to closing the C&D disposal site. Removed materials shall be taken to a permitted solid waste disposal facility or recycler.

5.04 Final Closure Requirements

The final cover and closure activities for the C&D disposal site shall meet the requirements of ARSD 74:27:15:03 and include:

- A. covering waste disposal areas/trenches with a minimum of two feet of earthen material capable of sustaining perennial vegetation;
- B. incorporating contours of the covered waste disposal areas/trenches and other reclaimed areas into the contours of the surrounding area;
- C. grading to prevent ponding of water;
- D. seeding and revegetating the entire closed C&D disposal site in accordance with Natural Resources Conservation Service recommendations; and
- E. posting a sign stating that the site is closed.

5.05 Completion of Final Closure

The operator shall complete closure activities for the entire C&D disposal site within 180 days of receipt of the last load of waste.

5.06 Notation on Deed Required

The operator shall record a notation on the deed to the property or on some other instrument that is normally examined during a title search. The deed notation shall state that the land has been used as a solid waste disposal facility.

5.07 Certification of Closure

Upon completion of closure of the C&D disposal site, the operator shall provide DANR with a certification confirming that the provisions of the closure plan (if applicable) have been carried out, and that the facility has been closed in accordance with Section 5.0 of this general permit and the applicable performance standards of ARSD 74:27:15.

6.0 **Financial Assurance**

DANR will not typically require financial assurance for a facility authorized under this general permit as long as the operator complies with the environmental laws and rules of the state and the conditions of this general permit. However, DANR reserves the right to require financial assurance if violations occur or if unique circumstances dictate the need for financial assurance. If required, financial assurance shall comply with SDCL 34A-6-1.11 and 34A-6-1.12, and ARSD 74:27:16.

**Table 1
Authorized Wastes
C&D Solid Waste Disposal Facility**

Under South Dakota law, local ordinances may further restrict some of the items listed below. The operator may choose not to accept some of the waste materials listed below.

Type of Waste	Handling Procedures / Requirements
<u>Construction and demolition debris:</u> Concrete, brick, stonework, asphaltic concrete, concrete block, asphaltic or fiberglass shingles, painted or stained wood, attached insulation, pipe, and similar wastes.	These wastes must be buried. These wastes may not be burned . Concrete, brick, stonework, asphaltic concrete, and concrete block may be buried or temporarily stored for subsequent recycling and reuse.
<u>Trees and untreated wood:</u> Scrap lumber, trees, tree branches, and brush. Painted, stained, glued, or chemically treated wood is considered treated and <u>may not be open burned</u>.	These wastes may be burned or buried. Wastes to be burned must be isolated in a separate area of the site. Contact the local fire department, DANR, and local law enforcement prior to open burning.
<u>Miscellaneous wastes:</u> Carpets, chairs, couches, mattresses, linoleum, glass, and similar materials.	These wastes may not be burned. These materials must be buried.
<u>Ash</u>	Only ash from wood burning stoves or other household sources and authorized on-site open burning may be accepted for burial.

Other wastes not listed above may be approved by DANR on a case-by-case basis. Waste not specifically listed above or approved by DANR must be removed and properly disposed at a permitted municipal solid waste landfill or restricted use site. DANR can be contacted at (605) 773-3153.

Table 2
Unauthorized Wastes
C&D Solid Waste Disposal Facility

The following wastes **are not allowed** to be accepted at a restricted use site. If these substances/materials are found at the site, proper specific handling procedures and requirements are stated below for operator use. DANR can be contacted at (605) 773-3153.

Type of Waste	Handling Procedures / Requirements
<u>Hazardous waste:</u> Waste oil, solvents, PCBs, ash, or similar wastes.	Isolate waste and contact DANR as soon as possible.
<u>Pesticide containers</u>	Waste must be removed from the site and taken to a permitted municipal solid waste landfill or contact the DANR about recycling options.
<u>Regulated asbestos-containing materials</u>	Isolate waste and contact DANR as soon as possible. Waste must be taken to a permitted municipal solid waste landfill.
<u>Lead-acid batteries</u>	Waste must be removed from the site and taken to a recycler that accepts lead-acid batteries.
<u>Putrescible wastes:</u> Municipal solid waste and household garbage.	Waste must be removed from the site and taken to a permitted municipal solid waste landfill.
<u>Liquid waste:</u> Petroleum products, sludges, tar, paint, used motor oil, contaminated water, or other liquid wastes.	Isolate waste and contact DANR as soon as possible to determine appropriate disposal methods.
<u>Treated wood:</u> Wood treated with inorganic chemicals, chromated copper arsenate (CCA), pentachlorophenol (PCP), or creosote. CCA and PCP treated wood is commonly referred to as green or brown treated.	Waste must be removed from the site and taken to a permitted municipal solid waste landfill for disposal.
<u>Miscellaneous wastes:</u> Cardboard, plastic, plastic containers, Styrofoam, foam rubber, packaging materials, loose insulation, containerized paints, sealants, adhesives, and similar materials.	Waste must be removed from the site and taken to a permitted municipal solid waste landfill for disposal or recycled.
<u>White goods/scrap metal/electronics:</u> Washers, dryers, refrigerators, freezers, stoves, water heaters, TVs, computers, monitors, cell phones, VCRs/DVDs, and scrap metal.	Waste must be removed from the site and taken to a permitted solid waste facility or recycler.
<u>Waste tires</u>	Waste tires must be removed from the site and taken to a permitted solid waste facility or recycler.
<u>Yard waste:</u> Leaves, grass clippings and similar vegetation	Yard waste must be removed from the site and taken to a permitted solid waste facility for composting.
<u>Contaminated soil:</u> Soil contaminated with diesel fuel, fuel oil, kerosene, jet fuel, gasoline, pesticides, solvents, transformer oil, motor oil, lubricants, grease, tar, or similar materials.	Isolate waste and contact DANR as soon as possible to determine appropriate disposal methods.