

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

**INITIAL APPLICATION TO STORE AND/OR LAND APPLY DAIRY PROCESSING BY-PRODUCTS  
OR  
INITIAL REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT  
TO STORE AND/OR LAND APPLY DAIRY PROCESSING BY-PRODUCTS (GPWA 23-04)**

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

**1.0 General Information**

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

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

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

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

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

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

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

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

\_\_\_\_\_

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

\_\_\_\_\_

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

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

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

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

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

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

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

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

## 2.0 Document Submittals Required

Attach documents as indicated by the following key:

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

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

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

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

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

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

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

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

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

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

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

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

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

*Shannon Minerich  
Department of Agriculture and Natural Resources - Surface Water Quality Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, South Dakota 57501  
(605) 773-3351*

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

2.09 **[ALL]** A signed Certification of Applicant form required by SDCL 1-41-20 and SDCL 34A-6-1.10 (attached).

2.10 **[ALL]** All landowners adjacent to the storage and/or land application site(s) must be notified in writing, via certified mail, of a request for authorization under the general permit or an individual permit application. Submit a copy of the letter you sent to the adjacent landowners and the certified mail return receipts with the application.

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

2.12 **[B]** If the site(s) does not meet the siting criteria stated in condition 2.01 of the general permit or section 1.11 of this application, document efforts that will be made to minimize potential environmental impacts.

### **3.0 Permit Fee**

Each application to be authorized under the general permit or individual permit application must be accompanied by a fee based on the annual tonnage of waste to be stored and/or land applied in accordance with the following fee schedule:

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

#### 4.0 Signatures

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

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

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

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Landowner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Operator's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lienholder's Signature

\_\_\_\_\_  
Date

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



*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 1-41-20, 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 1-41-20 (1) (a) THROUGH (e).  
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT  
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION**

## **INFORMATION SOURCES**

### **A. Flood Plain Information**

1. Federal Emergency Management Agency (FEMA)  
Flood Map Service Center  
PO Box 1038  
Jessup, MD 20794-1038  
Phone: (877) 336-2627
2. US Army Corps of Engineers  
1616 Capitol Avenue  
Omaha, NE 68102-4901  
Phone: (402) 995-2322 or (402) 995-2328
3. Contact County Government
4. Division of Emergency Management  
Phone: (605) 773-3231

### **B. Wetlands Information**

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

### **C. USGS Topographic Map Information**

1. SD Geological Survey  
USD Science Center  
414 E. Clark St.  
Vermillion, SD 57069-2390  
Phone: (605) 677-5227
2. USGS Information Services  
Box 25286  
Denver, CO 80225  
Phone: (888) 275-8747
3. Contact local NRCS office

### **D. Airport Safety Information**

1. Federal Aviation Administration  
Bismarck Airports District Office  
2301 University Drive Bldg 23B  
Bismarck, ND 58504  
Phone: (701) 323-7380  
Fax: (701) 323-7399
2. SD Department of Transportation  
Office of Aeronautics  
700 E. Broadway Ave.  
Pierre, SD 57501  
Phone: (605) 773-3265

### **E. Geological & Ground Water Information**

1. SD Geological Survey  
USD Science Center  
414 E. Clark St.  
Vermillion, SD 57069  
Phone: (605) 677-5227
2. US Geological Survey  
SD Water Science Center  
1608 Mountain View Road  
Rapid City, SD 57702  
Phone: (605) 394-3220
3. Contact local NRCS office

### **F. Soil Classification Information**

1. Contact local NRCS office

### **G. Surface Water/Wetlands**

1. Department of Agriculture and Natural Resources  
523 East Capitol – Joe Foss Bldg.  
Pierre, SD 57501-3182  
Phone: (605) 773-3351  
Also for 401 Certification
2. Game, Fish & Parks  
523 East Capitol - Joe Foss Bldg.  
Pierre, SD 57501  
Phone: (605) 773-3387
3. US Army Corps of Engineers  
South Dakota Regulatory Office  
28563 Powerhouse Road  
Pierre, SD 57501  
Phone: (605) 224-8531  
Fax: (605) 224-5945  
For 404 Permitting

### **H. General Assistance**

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

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

## ENVIRONMENTAL CONTACTS

**This is an example form letter which you may want to use when contacting the agencies required by Section 2.08 of this application. These contacts must be made for all initial solid waste permit applications.**

Date

Contact Name  
Contact Agency  
Address  
City, State Zip Code

Dear Contact Name:

The \_\_(1)\_\_ is applying for a land application site permit. This facility will be located in \_\_(2)\_\_, South Dakota.

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

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

Sincerely,  
\_\_(5)\_\_

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

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

(3) - Your name

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

(5) - Your name.

## ADJACENT LAND OWNERS NOTIFICATION

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

Date

Contact Name  
Address  
City, State Zip Code

CERTIFIED  
Return Receipt Requested

Re: (  1  ) solid waste permit application

Dear Contact Name:

This letter is to inform you that the (  1  ) is filing a solid waste permit application with the South Dakota Department of Agriculture and Natural Resources on or before (  2  ). This application is for the construction and operation of a (  3  ) facility located in the (  4  ). Notification is being given to all landowners whose properties are adjacent to the proposed facility location in accordance with ARSD 74:27:09:02.

If you have any questions, please contact me at (  5  ).

Sincerely

(  6  )

- (1) The name of the city, district, association, or entity for which the application is being made.
- (2) The estimated date the application will be submitted to the DANR.
- (3) The type of proposed facility for which you need a permit. *Example:* restricted use, landfarm, municipal solid waste.
- (4) The legal description of the proposed solid waste facility. *Example:* NW ¼ NE ¼ of Section 12, Township 7 North, Range 2 West, Haakon County
- (5) A telephone number at which you can be reached for more information.
- (6) Your name (title).

**Example of County Resolution**

**Resolution No.** \_\_\_\_\_

\_\_\_\_\_ **County Commission**

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

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

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

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

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

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

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

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

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

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the \_\_\_\_\_  
County Commission in regular session at \_\_\_\_\_.

Signed \_\_\_\_\_  
County Clerk