

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

**General Surface Water Discharge Permit Authorizing Discharge
Under The South Dakota Surface Water Discharge System**

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota, Article 74:52,

any pesticide applicator discharging a pollutant from a point source associated with the application of a pesticide for control of Aquatic Invasive or Nuisance Pests

is authorized under this General Permit to discharge to

waters of the state of South Dakota

in accordance with the conditions set forth herein. Authorization is limited to those application categories specifically listed in the General Permit. The permittee must comply with all conditions of this General Permit. Any permit noncompliance constitutes a violation of the South Dakota Water Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

This General Permit shall become effective October 1, 2020.

This General Permit and the authorization to discharge shall expire at midnight, September 20, 2025.

Signed this 25th day of September, 2020.



Authorized Permitting Official

Hunter Roberts
Secretary
Department of Environment and Natural Resources

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1.0 DEFINITIONS

“Active Ingredient” means any ingredient which prevents, destroys, repels, or mitigates insects, fungi, rodents, weeds, or other pests.

“Adverse Incident” means an undesirable unexpected event caused by use of a pesticide that adversely affects human health or the environment, or is reasonably likely to suffer a delayed or chronic adverse effect in the future. This definition does not include spills and leaks. The phrase “adverse incident” includes effects on non-target plants, fish, or wildlife that are unusual or unexpected as a result of exposure to a pesticide residue, and may include:

1. Distressed or dead fish;
2. Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants; or
3. Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.).

The phrase, “adverse effects,” also includes any adverse effects to domesticated animals or humans related to exposure to a pesticide residue.

“Applicator” see “Pesticide Applicator.”

“ARSD” means the Administrative Rules of South Dakota.

“Best Management Practices (BMPs)” include schedules of activities, prohibitions of practice, 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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Biological Pesticides” also called biopesticides, include microbial pesticides, biochemical pesticides, and plant-incorporated protectant (PIP).

1. Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limit to, protozoa, algae, and fungi; (2) is a prokaryotic microorganism, including, but not limited to, *Eubacteria* and *Archaeobacteria*; or (3) is a parasitically replicating microscopic element, including but not limit to, viruses. [40 CFR 158.2100(b)]
2. Biochemical pesticide means a pesticide that (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and (3) has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)]

3. Plant-incorporated protectant means a pesticidal substance that is intended to be produced and used in a living plant, or in the material produced by the plant, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or material produced by the plant. [40 CFR 174.3]

“Chemical Pesticides” means all pesticides not otherwise classified as biological pesticides.

“Control Measure” refers to any BMP or other method used to meet any effluent limit and minimize the discharge of pollutants to waters of the state.

“Clean Water Act” or “CWA” (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. No. 92-500, as amended by Pub. L. No. 95-576, Pub. L. No. 96-483, and Pub. L. No. 97-117, 33 U.S.C. 1251 et seq. as in effect on January 1, 1992.

“Declared Pest Emergency Situation” means an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:

1. Significant risk to human health;
2. Significant economic loss; or
3. Significant risk to:
 - a. Threatened or endangered species, as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884);
 - b. Beneficial organisms; or
 - c. The environment.

“Discharge” means any addition of any pollutant or combination of pollutants to surface waters of the state from any point source. For the purposes of this General Permit, this does not include the lawful transfer, mixing, loading, unloading, repackaging, or refilling of a pesticide carried out over operational area containment and not lawful distribution, use, disposal, or application of a pesticide.

“EPA” or “US EPA” means United States Environmental Protection Agency.

“Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)” refers to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135 et seq., as amended by the Federal Environmental Pesticide Control Act of 1972, 86 Stat. 973.

“Inert Ingredient” means an ingredient which is not an active ingredient.

“Integrated Pest Management (or IPM)” is a holistic approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that balances economic, health, and environmental risks and benefits.

“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.

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

“Permittee” refers to any pesticide applicator covered under this General Permit.

“Person” means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

“Pest” means any insect, rodent, nematode, fungus, weed, or other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, with the SD Secretary of Agriculture by regulation may declare to be a pest.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Note: drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation as pesticides under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc.).

This General Permit uses the term, “pesticide,” when referring to the, “pesticide, as applied.” When referring to the chemical in the pesticide product with pesticidal qualities, the General Permit uses the term, “active ingredient.”

“Pesticide Applicator” means a person who owns, leases, operates, controls, or supervises the application of a pesticide.

“Pesticide Residue” refers to the portion of a pesticide application that is discharged from a point source to waters of the state and no longer provides pesticidal benefits. It may include the pesticide and the degrades of the pesticide.

“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” means any dredged soil, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, munitions, chemical waste, 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. For the purpose of this definition, a “biological pesticide” is considered a “biological material,” and any “pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste.” This term does not mean sewage from water craft; 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 or 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.

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

“SDDA” refers to the South Dakota Department of Agriculture.

“Secretary” means the Secretary of the South Dakota Department of Environment and Natural Resources, or authorized representative.

“Surface Water Discharge (SWD) Permitting Program” is the state program that regulates the discharge of pollutants into the state’s waters. This is the state’s implementation of the federal NPDES program.

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

“Treatment Area” refers to the area of land, including any waters, to or over which pesticides are being applied at a concentration adequate to cause the intended effect of controlling targeted pests within that area.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limits because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“Waters of the State” refers to 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 federal Clean Water Act other than cooling ponds as defined in 40 C.F.R. 423.11(m) (July 1, 1991).

“Water Quality Standards” refers to the water quality standards adopted pursuant to SDCL 34A-2-10 and 34A-2-11 or actual existing beneficial uses, whichever is higher, and effluent standards adopted pursuant to SDCL 34A-2-13 or pursuant to the best professional judgement of the Secretary, whichever is applicable.

“Whole Effluent Toxicity” or **“WET”** is the total toxic effect of an effluent measured directly with a toxicity test.

2.0 PERMIT COVERAGE

2.1 Coverage under the General Permit

The General Permit is applicable to pesticide applicators that discharge to waters of the state from the application of either chemical pesticides that leave a residue or biological pesticides and are not otherwise excluded from coverage under the federal Clean Water Act. The following application category is covered under this General Permit:

1. **Animal Pest Control.** This application category includes the application, by any means, of chemical and biological pesticide to control animal pests in water and at water's edge. Animal pests in this use category include fish, lampreys, insects, mollusks, and pathogens.

All pesticide activities requiring coverage under this General Permit will be granted coverage upon the receipt, approval, and public notice of the permittee's Notice of Intent. Coverage under this General Permit is required if water is present at the time and location of the pesticide application; the authorization is not applicable if the pesticide application is in a dry drainage and does not reach a flowing stream. Compliance can be verified by recording the presence or absence of water at the date, time, and location of application.

Pesticide applicators authorized to discharge under this General Permit are only covered for the use category identified above, and not for any other discharge that causes or contributes to pollutants being discharged into waters of the state such as spills or leaks of pesticides.

2.2 Limitations on Coverage

A pesticide applicator is not eligible for coverage under this General Permit for the activities listed below. An individual permit or alternative General Permit would be required for any of the following discharges into waters of the state:

1. Discharges of a pesticide to waters of the state identified on the 303(d) list or Integrated Report as impaired for that pesticide or its degradates.

2.3 Continuation of the Expired General Permit

An expired General Permit continues in full force and effect until a new General Permit is issued. Any permittees authorized to discharge under this General Permit will automatically remain covered by this General Permit until a new General Permit is issued.

2.4 Reopener Provisions

This General Permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limits (and compliance schedules, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. **Water Quality Standards:** The water quality standards of the receiving waters applicable to this General Permit are modified in such a manner as to require different effluent limits than contained in this General Permit;
2. **Water Quality Management Plan:** A revision to the current water quality management plan is approved and adopted that calls for different effluent limits

than contained in this General Permit;

3. Effluent Guidelines: Effluent limit guidelines are promulgated or revised for point sources covered by this General Permit;
4. Total Maximum Daily Load: Additional controls in the General Permit are necessary to implement a total maximum daily load approved by the Secretary and/or EPA;
5. Noncompliance: The discharger is a significant contributor of pollution to waters of the state, presents a health hazard, or is in noncompliance with the conditions of the General Permit; or
6. Other Changes: Other conditions or standards change so that the discharge no longer qualifies for this General Permit, such as the permittee being designated as a major discharger, changes in necessary influent or effluent pollutant monitoring, additional industrial pretreatment requirements become applicable to the permittee, or other items.

2.5 Requiring an Individual Permit

1. The Secretary may require any permittee covered under this General Permit to apply for and obtain an individual permit if any of the following occur:
 - a. Noncompliance. The permittee is a significant contributor of pollution to waters of the state, presents a health hazard, or is in noncompliance with the conditions of this General Permit;
 - b. Changes in Technology or Practices. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - c. Effluent Guidelines. Effluent limitation guidelines are promulgated for the discharge;
 - d. Water Quality Management Plan. A water quality management plan containing requirements applicable to the discharge is approved;
 - e. Discharge to Waters of the State Identified on the 303(d) List. Those discharges which will be to waters of the state identified on the 303(d) list or the Integrated Report as impaired for that pesticide or its degradates;
 - f. Other Changes. Other conditions or standards change so that the permittee no longer qualifies for coverage under this General Permit, such as changes in necessary pesticide application monitoring, the discharge does not qualify as an approved application activity, or other items that would necessitate an individual Surface Water Discharge permit.

2.6 Property Rights

1. The Secretary's issuance of this General Permit, adoption of design criteria, and approval of plans and specifications, 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.

- 2 The State does not warrant that the permittee's compliance with this General Permit, design criteria, approved plans and specifications, 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, that may result from actions taken under the General Permit.

2.7 Permit Actions

The Secretary may modify, revoke and reissue, or terminate coverage under this General Permit for cause, including failure to comply with any provision of this General Permit or any condition imposed by the Secretary upon granting coverage under this General Permit. The filing of a request by the permittee for a General Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any General Permit condition.

2.8 Severability

The provisions of this General Permit are severable, and 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 provision to other circumstances, and the remainder of this General Permit, shall not be affected thereby.

2.9 Notice of Intent

To obtain authorization under this permit for all other eligible discharges, a permittee must submit a timely, complete, and accurate Notice of Intent (NOI) 30 days prior to starting a discharge that needs coverage under this general permit. The NOI provides notice to the Secretary of the intention to discharge to waters of the state from pesticide application activities eligible under this general permit. The NOI form included in Appendix A contains the information required to submit a NOI. The NOI must identify the pest management the permittee will conduct activities that result in a discharge of pesticides to Waters of the State. The NOI will be public noticed for 10 days on South Dakota Department of Environment and Natural Resources website before permit coverage begins and can be found at <https://denr.sd.gov/public/default.aspx>.

Coverage will be available for the duration of the permit for the permittee who filed an NOI including the employees, contractors, subcontractors, and other agents for all activities identified on the NOI unless coverage is terminated pursuant of **Section 2.10** of the permit.

2.10 Terminating Coverage

Until the Secretary terminates your coverage under this General Permit, you are required to comply with all conditions of the General Permit. Once all point source discharges have

ceased, the permittee must submit a Notice of Termination (NOT) within 30 days after one or more of the following conditions have been met:

1. A new permittee has taken over responsibilities for the pest control activities and has approved coverage under this General Permit;
2. All discharges covered by the General Permit have ceased and there will be no further discharges during the remainder of the General Permit term for the application category identified in **Section 2.1**; or
3. The permittee has obtained coverage under an individual Surface Water Discharge permit or an alternative general permit for all discharges of pollutants to surface waters of the state.

If the Department determines that the permittee has not satisfied one of the conditions listed above, then the notice is not valid and the Department will not terminate coverage. The permittee would then still need to comply with the conditions of the General Permit until a valid notice is received.

3.0 EFFLUENT LIMITS

3.1 Inspection Requirements

1. The permittee shall inspect the application area(s) following each application or **weekly** while in use if application is continuous. If application is intermittent, the permittee shall inspect the application area(s) **daily** while application is occurring. The permittee shall inspect the pesticide application equipment **daily** while application is occurring. The application area(s) and application equipment should be inspected to ensure that the best management practices are being implemented properly and for evidence of adverse effects to the water quality or non-target organisms. The permittee shall maintain the following records for each application:
 - a. Date and time of the inspection;
 - b. Name and address of the person or entity for whom the pesticide was applied;
 - c. Name or entity who applied the pesticide;
 - d. The locations of the land or property where the pesticide was applied;
 - e. The target pest(s);
 - f. The size of the treatment area;
 - g. The trade or brand name and common name of each pesticide applied, the EPA pesticide registration number for each product, and the company name appearing on the product label;
 - h. The weather conditions at the time of application; and
 - i. The amount of pesticide applied and the application rate.
2. The permittee shall maintain the inspection records for each application in accordance with proper record-keeping procedures and shall make the inspection

records available for inspection, upon request, by SDDENR, SDDA, or the US EPA.

3.2 Effluent Limits – All Pesticide Discharges

All permittees covered under this General Permit shall comply with the following technology-based effluent limits:

1. The permittee must follow all applicable state and FIFRA label instructions.
2. The permittee shall be aware of other pesticide applications that are occurring in the same treatment area. If the applicator is aware of other pesticide applications occurring in the same treatment area, the applicators shall coordinate the applications to minimize discharge into waters of the state due to over application.
3. The permittee shall use only the amount of pesticide and frequency of pesticide application necessary to control the target pest using equipment and application procedures appropriate for the task.
4. The permittee shall maintain equipment to minimize leaks, spills, or other unintended discharges of pesticides by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment on a regular basis.
5. The permittee shall develop and implement BMPs to minimize and mitigate the adverse effects of discharges on water quality and non-target species.
6. If a release or spill occurs within and/or outside of the operational area, the permittee shall immediately contain and recover the product using absorbent materials, pumps, or similar means. The permittee shall properly dispose of or reuse excess materials.

Operational area containment surfaces exposed to concentrated and diluted pesticides shall be periodically cleaned by the permittee and all rinsates shall be recovered and stored in accordance with SDCL Chapter 38-21 and Article 12:56.

Recovered substances may be used in accordance with the applicable pesticide product label.

7. Permittees who apply pesticide under this General Permit must prepare a Pesticide Discharge Management Plan (PDMP) in accordance with **Section 4.0**.
8. Assess environmental conditions prior to each pesticide application to identify if conditions are suitable for pesticide application activities; and
9. Evaluate the management options, considering impacts to water quality, impacts to non-target organisms, pest resistance, feasibility, and cost- effectiveness.
10. If any of the following situations occur, the permittee shall review and, as necessary, revise the control measures to ensure that the situation is eliminated and will not be repeated in the future:

- a. A pesticide application results in adverse impacts to water quality or non-target organisms;
- b. An unauthorized release or discharge occurs (e.g., spill, leak, or discharge not authorized by this or another Surface Water Discharge permit);
- c. An inspection or evaluation by EPA, SDDENR, or SDDA determines that modifications to the control measures are necessary to meet the non-numeric effluent limits in the General Permit; or
- d. The permittee observes or is otherwise made aware of an adverse incident as a result of the application.

If the permittee determines that changes to the PDMP are necessary to eliminate any situation identified above, such changes shall be made before the next pesticide application that results in a discharge.

11. Inspect and evaluate the treatment area after each pesticide application or weekly if continuous treatment to determine the effectiveness of the treatment and determine if application adversely affected the environment or non-target organisms.
12. Prior to the first pesticide application and at least once each year thereafter, the permittee shall, at a minimum:
 - a. Identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. fisheries, recreation);
 - b. Identify target pest(s);
 - c. Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species);
 - d. Select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticide.

3.3 Best Management Practices

The Permittee shall

4.0 PESTICIDE DISCHARGE MANAGEMENT PLAN

4.1 Plan Preparation and Compliance

In addition to the narrative effluent limits established in **Section 3.0**, the permittees who apply pesticides to control animal pests under this General Permit are required to develop and implement a Pesticide Discharge Management Plan (PDMP). The PDMP shall be developed to reduce pollutants entering surface waters of the state from discharges associated with this General Permit. **The plan must be developed prior to discharging**

pesticides from an activity covered by this General Permit. Once complete, the PDMP becomes an enforceable part of the General Permit.

The PDMP is intended to document the evaluation and selection of control measures. The PDMP may reference procedures in other documents, such as a pre-existing integrated pest management (IPM) plan. If so, the permittee shall keep copies of relevant portions of those documents with the PDMP and make it available for review in accordance with **Section 5.7.**

4.2 Contents of the Plan

The PDMP shall be signed in accordance with **Section 5.4**, and contain the following elements, at a minimum:

1. Personnel Responsibilities
 - a. Person(s) responsible for developing and revising the PDMP;
 - b. Person(s) responsible for pesticide application in each treatment area;
 - c. Person(s) responsible for taking corrective actions where required; and
 - d. Person(s) responsible for pesticide applications.
2. Pest Problem Description
 - a. Location of the treatment area(s), including a map with geographic boundaries and all waters of the state that may receive a discharge due to pesticide application (e.g., quadrangle map, a portion of a city or county map, or other map);
 - b. The target pest(s) and, if known, pest densities; and
 - c. The desired result of application (e.g., target pest density, obtain wildlife habitat, recreational or water use, etc.).
3. Pest Management Controls
 - a. Mechanical/physical management controls;
 - b. Cultural management controls;
 - c. Biological control agents; and
 - d. Pesticides.
4. Schedules and Procedures
 - a. **Equipment Maintenance Schedules and Procedures.** The permittee shall develop and document procedures for maintaining the application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment. These procedures shall include schedules for completing the required maintenance, as well as employee training, where

necessary.

- b. **Handling Procedures.** The permittee shall develop and document procedures for proper handling and storage of pesticides to prevent or minimize the potential for discharges to waters of the state.
- c. **Response Procedures.** The permittee shall identify and document the following procedures for preventing and responding to spills and leaks, and for responding to an adverse incident:
 - i. Detailed steps for responding to any incident, including steps to minimize and mitigate the adverse incidents on water quality or non-target species;
 - ii. Chain of command notification for any incident, including both internal and external contacts;
 - iii. Name and telephone number for state contacts including SDDENR at (605) 773-3351, and SDDA at (605) 773-3375;
 - iv. Name, location, and telephone of nearest emergency medical facility;
 - v. Name, location, and telephone of nearest hazardous chemical responder (including police and fire department); and
 - vi. Name and telephone number for the National Pesticide Telecommunications Network at (800) 858-7378.

5. Pesticide Inspection and Evaluation Procedures

- a. The procedures and methods for conducting both pre- and post-application inspection and evaluation of the treatment area;
- b. The person responsible for conducting treatment area inspections and evaluations; and
- c. Procedures for documenting any incidents of General Permit noncompliance.

6. Best Management Practices (BMPs)

- a. The PDMP shall include best management practices the permittee will use to ensure compliance with the conditions of the General Permit.

7. Modifications to the PDMP

8. Other Documents Referenced in the PDMP

4.3 Signature and Plan Review

- 1. The plan shall be signed in accordance with **Section 5.4 – Signatory**

Requirements and retained at the facility. Employees must receive training on the plan and have access to the information contained in the plan.

2. The permittee shall make plans available upon request to the Secretary.
3. The Secretary may notify the permittee at any time that the plan does not meet the minimum requirements of **Section 4.0 – Pesticide Discharge Management Plan**. Such notification shall identify those provisions of the General Permit which are not being met by the plan and identify which provisions require modifications in order to meet the minimum requirements. Within seven days of notification, the permittee shall make the required changes to the plan and shall submit to the Secretary a written certification that the request changes have been made.

4.4 Keeping Plans Current

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan proves to be ineffective in eliminating or significantly minimizing pollutants present in the discharge.

5.0 MONITORING, RECORD KEEPING & REPORTING REQUIREMENTS

5.1 Submittal of Reports

1. All reports required herein, shall be signed and certified in accordance with **Section 5.4 – Signatory Requirements** and submitted to the Secretary at the following address:

South Dakota Department of Environment and Natural Resources
Surface Water Quality Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501-3182

In accordance with 40 CFR, Part 122, all General Permit reports shall be submitted electronically starting no later than **December 21, 2020**.

2. All annual reports must be submitted by February 28th of the following calendar year. See **Section 5.2** for the annual report thresholds and requirements.
3. In accordance with SDCL 1-40-39, the Secretary is authorized 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 53-12-47 and 53-12-50 or any other standards established by rules promulgated pursuant to SDCL Chapter 1-26.

5.2 Annual Reporting

1. Permittees are required to submit an annual report under this general permit for the calendar year.
2. The report shall be due by February 28th of the following year and shall include the following, at a minimum:
 - a. The permittee's name;
 - b. South Dakota Certified Pesticide Applicator number, if applicable;
 - c. The total surface water treatment area in acres, linear miles, or total pesticide amount used
 - d. Target pest(s) and pesticides used; and
 - e. Whether or not the permittee applied pesticides because of a declared pest emergency. If pesticides were applied in response to a declared pest emergency, the permittee must include:
 - i. Dates and times of the pesticide application;
 - ii. Target pest(s); and
 - iii. Which government entity declared the pest emergency.

5.3 Adverse Incident Reporting

1. **Twenty-Four (24) Hour Adverse Incident Notification.** The permittee shall notify SDDENR as soon as possible of an adverse incident that may have resulted from a discharge from the permittee's pesticide application. SDDENR shall receive notification no later than twenty-four (24) hours after the permittee becomes aware of the circumstances. The notification shall be submitted to SDDENR at (605) 773-3351 and to SDDA at (605) 773-4432 during regular business hours (8:00 AM – 5:00 PM Central Time). This reporting requirement is in addition to any other applicable reporting requirements the permittee may be subject to under state and federal law.
 - a. When providing the 24-hour notice identified in paragraph 1 above, notification for any adverse incident shall include the following information at a minimum:
 - i. Contact information, including the caller's name and telephone number, the permittee's name and mailing address, and the name and telephone number of a contact person, if different than the person providing notice;
 - ii. Description of the adverse incident, including the EPA pesticide registration number for each product applied by the permittee in the area;
 - iii. Product use and purpose;

- iv. How and when the permittee became aware of the adverse incident;
 - v. Location of the adverse incident including any water bodies that may have been impacted; and
 - vi. Description of any steps that have been or will be taken to mitigate or correct any adverse incidents.
2. **Thirty (30) Day Adverse Incident Written Report.** Within thirty (30) days of becoming aware of an adverse incident, the permittee shall provide a written report of the adverse incident to SDDENR at the address provided in **Section 5.1**. The incident report shall include the following information, at a minimum:
- a. All documentation required in **Section 5.3.1 – Twenty-Four (24) Hour Adverse Incident Notification** above.
 - b. Date of incident, if known (if appropriate, list start and end dates);
 - c. Date and time SDDENR was notified of the adverse incident, as well as other agencies notified;
 - d. Location of incident, including approximate range, area, and magnitude of the effect (e.g., aquatic square area, or total stream distance affected);
 - e. Names of any surface waters impacted and the appearance of the waters (e.g., sheen, color, clarity, etc.);
 - f. A brief description of the circumstances of the incident including species affected;
 - g. Symptoms or adverse incidents:
 - i. If plants were impacted, the type of plant life affect;
 - ii. The number of individual and approximate size of any dead or distressed organisms.
 - h. Pesticide application rate;
 - i. The intended use site (e.g., banks, above, or direct to water), and method of application;
 - j. If laboratory tests were performed, indicate what test(s) were performed and provide a copy of the test results; and
 - k. Actions to be taken to prevent recurrence of the incident.
3. The Secretary may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Surface Water Quality Program, South Dakota Department of Environment and Natural Resources, (605) 773- 3351.

5.4 Signatory Requirements

1. All reports or information submitted to the Secretary shall be signed and certified 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;
 - 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 in Paragraph 1 of this section 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; and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of superintendent or equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may be either a named individual or any individual occupying a named position.
3. If an authorization under Paragraph 2 a. above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Secretary.
4. Any person signing a document under this section shall include the following certification:

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.

5.5 Retention of Records

1. The permittee shall retain records of all applications and reports required by this General Permit. This includes:
 - a. Inspection records;

- b. A copy of the General Permit;
 - c. The PDMP;
 - d. Best Management Practices;
 - e. Annual reports;
 - f. Copies of all other reports required by this General Permit; and
 - g. Records of all inspections and practices used to meet the technology-based effluent limits included in **Section 3.0**.
2. This information must be retained for a period of at least three years from the date of the inspection, measurement, report, or application. This period may be extended by request of the Secretary at any time. Data collected on site, the PDMP, and a copy of this General Permit must be maintained on site during the duration of the permitted activity.

5.6 Availability of Reports

Except for data determined to be confidential under ARSD Section 74:52:02:17, all reports prepared in accordance with the terms of this General Permit shall be available for public inspection at the office of SDDENR. The name and address of the permittee, permit applications, notices of intent, General Permit, and effluent data shall not be considered confidential.

5.7 Duty to Provide Information

1. The permittee shall furnish to the Secretary, within a reasonable time, any information the Secretary may request to determine whether 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. If the permittee becomes aware that it failed to submit any relevant facts in a permit application form, or submitted incorrect information in a permit application form or any report to the Secretary, it shall promptly submit such facts or information.

5.8 Planned Changes

The permittee shall give notice to the Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged, or could result in noncompliance with General Permit conditions. This notification also applies to pollutants that are not subject to effluent limits or other notification requirements in this General Permit.

5.9 Notification of Spills and Releases

1. A release or spill of a regulated substance (includes petroleum and petroleum products) must be reported to SDDENR immediately if any one of the following conditions exists:
 - a. The release or spill threatens or is in a position to threaten the waters of the

- state (surface water or ground water);
- b. The release or spill causes an immediate danger to human health or safety;
 - c. The release or spill exceeds 25 gallons;
 - d. The release or spill causes a sheen on surface water;
 - e. The release or spill of any substance that exceeds the ground water quality standards of ARSD Chapter 74:54:01;
 - f. The release or spill of any substance that exceeds the surface water quality standards of ARSD Chapter 74:51:01;
 - g. The release or spill of any substance that harms or threatens to harm wildlife or aquatic life;
 - h. The release or spill of crude oil in field activities under SDCL chapter 45-9 is greater than 1 barrel (42 gallons); or
 - i. The release or spill is required to be reported according to SARA Title III List of Lists, Consolidated List of Chemicals Subject to Reporting Under the Emergency Planning and Community Right to Know Act, US Environmental Protection Agency.
2. To report a release or spill, call SDDENR at 605-773-3296 during regular office hours (8 a.m. to 5 p.m. Central time). To report the release after hours, on weekends or holidays, call State Radio Communications at 605-773-3231. Reporting the release to the department does not meet any obligation for reporting to other state, local, or federal agencies. Therefore, the responsible person must also contact local authorities to determine the local reporting requirements for releases.

6.0 COMPLIANCE REQUIREMENTS

6.1 Duty to Comply

The permittee shall comply with all conditions of this General Permit. Any General 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 permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application (a violation of a condition of this General Permit is subject to SDCL Section 34A-2-75).

6.2 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any wastewater discharge and/or sludge disposal or reuse in violation of this General Permit that has a reasonable likelihood of adversely affecting human health or the environment.

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 Upset Conditions

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limits if the requirements of Paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology- based permit effluent limits).
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under **Section 5.9 – Notification of Spills and Releases**; and,
 - d. The permittee complied with mitigation measures required under **Section 6.2 – Duty to Mitigate**.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6.5 Penalties for Violations of General Permit Conditions

Any person who violates a General Permit condition is in violation of the provisions of SDCL 34A-2-36, and is subject to penalties under SDCL 34A-2-75. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state. Except as provided in **Section 6.4 – Upset Conditions**, nothing in this General Permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

6.6 Penalties for Falsification of Reports

1. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including monitoring reports or reports of compliance or noncompliance, is in violation of the provisions of SDCL 34A-2- 77, and is subject to penalties under SDCL 34A-2-75.
2. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this General Permit is in violation of the provisions of SDCL 34A-2-77, and is subject to penalties under SDCL 34A-2-75.

3. In addition to a jail sentence authorized by SDCL 22-6-2, such violators are subject to a criminal fine not to exceed ten thousand dollars per day of violation. The violator is also subject to a civil penalty not to exceed ten thousand dollars per day of violation, or for damages to the environment of this state.

6.7 Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Federal Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the General Permit has not yet been modified to incorporate the requirement.

6.8 Oil and Hazardous Substance Liability

Nothing in this General Permit shall be construed to preclude SDDENR from taking any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to that the permittee is or may be subject under section 311 of the Federal Clean Water Act.

6.9 Inspection and Entry

The permittee shall allow the Secretary or EPA, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter 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,

Sample or monitor at reasonable times for the purpose of assuring General Permit compliance or as otherwise authorized by the South Dakota Water Pollution Control Act, any substances or parameters at any location.

Appendix A

Notice of Intent



**DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES NOTICE OF INTENT (NOI)**
to Obtain Coverage Under the SWD Pesticide General Permit for
Invasive and Nuisance Animal Pests

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

Submission of this completed Notice of Intent (NOI) constitutes notice that the operator identified in Section B intends to be authorized to discharge pollutants to waters of the State within the invasive and nuisance animal pest management under SDDENR's Invasive and Nuisance Animal Pest General Permit. Submission of this NOI constitutes notice that the part identified in Section B of this form has read, understands, and meets the eligibility conditions of Part 1 of the permit; agrees to comply with all applicable terms and conditions of the permit; and understands that continued authorization under the permit is contingent on maintaining eligibility for coverage. To be granted coverage, all information required on this form must be completed. Please read and make sure you comply with all permit requirements, including the requirement for all permittees to prepare a Pesticide Discharge Management Plan (PDMP) prior to NOI submittal. Refer to the instructions at the end of this form to complete your NOI.

1) Notice of Intent Status:

- a) Mark whether this is the first time you are requesting coverage under the Invasive and Nuisance Animal Pest general permit, or if this is a change of information for a discharge already covered under the Invasive and Nuisance Animal Pest general permit. If this is a change of information, supply the NPDES permit tracking number for the discharge.
- i) ☐ Original NOI submission
- ii) ☐ NOI change of information NPDES Tracking Number _____

2) Operator Information:

- a) Operator name: _____
- b) Operator type: (check one)
- i) ☐ Federal Government
- ii) ☐ State Government
- iii) ☐ Local Government
- iv) ☐ Water Treatment Plant
- v) ☐ Irrigation Control District
- vi) ☐ Weed Control District
- vii) ☐ Other, please describe _____
- c) Mailing Address: _____
- Street: _____
- City: _____
- State: _____ Zip code: _____
- Telephone: _____
- Contact Name: _____
- E-mail: _____

3) Pest Management Areas:

- a) Complete Section 3 for each Pest Management Area for which coverage under SDDENR's Invasive and Nuisance Animal Pest general permit is desired. Copy this section for additional Pest Management Areas.
- b) Pest Management Area # of # _____
- i) Are any of your activities for which you are requesting coverage under this NOI occurring in Indian Country? ☐ Yes ☐ No
If yes, identify the reservation or otherwise describe those areas:

- ii) Are any of your activities (in this pest management area) for which you are requesting coverage under this NOI occurring in areas considered "federal facilities" as defined by the permit? ☐ Yes ☐ No
- iii) Mailing address and contact information of the pesticide Applicator (or check here ☐ if same as provided in Section 2):
Street: _____
City: _____
State: _____ Zip code: _____
Telephone: _____
Contact Name: _____
E-mail: _____
- iv) Receiving Waters (check one):
v) Water Quality, Impaired Waters

4) Endangered Species Protection:

- a) Complete Section 4 for each Pest Management Area for which coverage under SDDENR's Invasive and Nuisance Animal Pest general permit is desired. Copy this section for additional Pest Management Areas.
- b) Pest Management Area # of # _____
- i) Identify the criterion for which you are eligible for permit coverage as it applies to Federally Listed Threatened or Endangered Species (Species) and/or Federally Designed Critical Habitat (Habitat). Check one:
- (1) Pesticide application activities will not result in a point source discharge to one or more waters of the United States containing National Marine Fisheries Services (NMFS) Listed Resources of Concern, as defined in Appendix A, of the draft general permit.
- (2) Pesticide application activities for which permit coverage is being requested will discharge to one or more waters of the state containing NMFS Listed Resources of Concern, as defined in Appendix A of the draft general permit, but consultation with NMFS under Section 7 of the Endangered Species Act (ESA) has been concluded for pesticide application activities covered under the draft general permit. Consultations can be either formal or informal, and would have occurred only as a result of a separate federal action. The consultation addressed the effects of pesticide discharges and discharge-related activities on federally-listed threatened or endangered species and

federally-designed critical habitat, and must have resulted in either:

- (a) A biological opinion from NMFS finding no jeopardy to federally-listed species and no destruction/ adverse modification of federally-designated critical habitat; or
 - (b) Written concurrence from NMFS with a finding that the pesticide discharges and discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat.
- (3) Pesticide application activities for which permit coverage is being requested will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the draft general permit, but all “take” of these resources associated with such pesticide application activities has been authorized through NMFS’ issuance of a permit under section 10 of the ESA, and such authorization addresses the effects of the pesticide discharges and discharge-related activities on federally-listed species and federally-designated critical habitat. (The term “take” means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. See Section 3 of the Endangered Species Act, 16 U.S.C § 1532 (19).)
 - (4) Pesticide application activities were, or will be, discharged to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the draft general permit, but only in response to a Declared Pest Emergency Situation.
 - (5) Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the draft general permit. Eligible discharges include those where the Decision-maker includes in the NOI written correspondence from NMFS that pesticide application activities performed consistent with appropriate measures will avoid or eliminate the likelihood of adverse effects to NMFS Listed Resources of Concern.
 - (6) Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the draft general permit. Eligible discharges include those from pesticide application activities that are demonstrated by the Decision-maker as not likely to affect NMFS Listed Resources of Concern or that the pest poses a greater threat to the NMFS Listed Resources of Concern than does the discharge of the pesticide.
- ii) If you checked criterion (4) or criterion (6) above, provide the following information for all discharges to waters of the United States containing NMFS Listed Resources of Concern identified within the pest management area for which permit coverage is being requested. For discharges pursuant to criterion (4), Declared Pest Emergency Situations, information from items (1) – (7) listed below should also include any discharges that have already occurred prior to NOI submission as well as the activities you performed in the 15 day period before submission of this NOI was required. In some cases, implementation of pest management measures as specified in the permit involves a degree of “adaptive management” such that exact timing and quantities of applications cannot be determined in advance for the duration of the permit. In such cases, the permittee must provide the required information to the extent feasible and consistent with the implementation of the selected pest management measures.
 - (1) Describe the location of the pest management area in detail or provide a map of the location
 - (2) Pest(s) to be controlled: _____
 - (3) Pesticide product(s) to be discharged and method of application: _____
 - (4) Planned quantity and rate of discharge(s) for each method of application: _____
 - (5) Number of planned discharges: _____

- (6) Approximate date(s) of planned discharge(s): _____
- (7) Your rationale supporting your determination that you meet the criterion for which you are submitting this NOI, for example, the *specific* BMPs applied, visual monitoring, equipment and/or site inspections, and other appropriate measures that will be undertaken to avoid or eliminate the likelihood or adverse effects. For certifications pursuant to criterion (4), indicate whether the discharge is likely to adversely affect NMFS Listed Resources of Concern in response to a pest emergency and, if so, any feasible measures to avoid or eliminate such adverse effects; for example, it is not sufficient to state that “integrated pest management procedures will be applied” without describing the specific measures to be taken (attach additional pages as necessary):

5) Certification

- a) 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. On the basis of 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.

Printed Name: _____

Title: _____

E-Mail: _____

Signature/Responsible Official: _____

Date: /_/_

- b) **NOI Preparer (Completed if NOI was prepared by someone other than the certifier)**

Preparer Name: _____

Organization: _____

Phone -----

Date: /_/_

E-Mail: _____

STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE
APPLICATION OF

STATE OF _____

COUNTY OF _____

CERTIFICATION OF

APPLICANT

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:

- a) 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:*
 - i) Has intentionally misrepresented a material fact in applying for a permit;*
 - ii) Has been convicted of a felony or other crime involving moral turpitude;*
 - iii) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
 - iv) Has had any permit revoked under the environmental laws of any state or the United States; or*
 - v) 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*
- b) 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**

Appendix B

Notice of Termination



**DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES NOTICE OF TERMINATION (NOT)**
of Coverage Under the SWD Pesticide General Permit for
Invasive and Nuisance Animal Pests

This form is required to be submitted when coverage under the general 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:

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

1) Permit Information

- a. NPDES Permit Number: _____
- b. Reason for termination (check one only):
- ☐ You have ceased all discharges from the application of pesticides for which you obtained permit coverage and you do not expect to discharge during the remainder of the permit term.
- ☐ You have obtained permit coverage under an NPDES individual permit or alternative NPDES general permit for all pesticide discharges requiring NPDES permit coverage.
- ☐ A new Operator has taken over decision-making responsibility for the pest control activities covered under an existing NOI. Provide the transfer date and the new Operator information Date of transfer: ____/____/____
- New Operator Name: _____
- Street: _____
- City: _____ State: ____ ZIP Code: _____
- Telephone: ____ - ____ - ____
- E-mail: _____

2) Operator Information

- a. Company Name: _____
- b. Mailing Address:
- Street: _____
- City: _____ State: ____ ZIP Code: _____
- Telephone: ____ - ____ - ____
- E-mail: _____
- c. Contact Name: _____
- d. E-mail: _____

3) Certification

I certify under penalty of law that I have met at least one of the reasons for terminating permit coverage listed in Section 1 above. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge pesticides to waters of the United States. This document and all attachments were prepared under my direction and supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. On the basis of 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 or imprisonment. Additionally, I understand that the submittal of this Notice of Termination does not release a pesticide Operator from liability for any violations of the Clean Water Act.

Printed Name: _____

Title: _____

E-mail: _____

Signature/Responsible Official: _____ Date / / ____

NOT Preparer (Complete if NOT was prepared by someone other than the certifier)

Preparer Name: _____

Organization: _____

Phone: ____ - ____ - _____ Date: ____ / ____ / ____