



**DEPARTMENT OF AGRICULTURE 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 Agriculture and Natural Resources
Surface Water Quality Program
523 East Capitol Avenue
Pierre, SD 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 SDDANR'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 SDDANR'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 SDDANR'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 AGRICULTURE 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**