

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

draft

**AUTHORIZATION TO DISCHARGE UNDER THE
SURFACE WATER DISCHARGE SYSTEM**

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD), Chapters 74:52:01 through 74:52:11,

Dakota Arms

is authorized to discharge to

the **city of Sturgis Publicly Owned Treatment Works (POTW)**

from its facility located in the city of Sturgis at 1310 Industry Road, in the Southeast $\frac{1}{4}$ of Section 6, Township 5 North, Range 5 East, in Meade County, South Dakota (Latitude 44.420278°, Longitude -103.556944°) in accordance with discharge point(s), effluent limits, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit. The permittee must comply with all conditions of this 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 permit shall become effective [PERMIT EFFECTIVE DATE]

This permit and the authorization to discharge shall expire at midnight, [EXPIRATION DATE]

Signed this day of

Steven M. Pirner
Secretary
Department of Environment and Natural Resources

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DEFINITIONS

30-day (and monthly) average means the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

7-day (and weekly) average means the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

ARSD means the Administrative Rules of South Dakota.

An **Authorized Release** is a discharge from a permitted outfall that meets all permit conditions and effluent limits.

A **Bypass** is the intentional diversion of waste streams from any portion of a treatment facility.

Chronic violations occur when sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter. Chronic violations are considered Significant Non-Compliance (SNC).

Composite samples shall be flow proportioned. The composite sample shall contain at least four samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:

1. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
2. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
3. Constant sample volume, time interval between samples proportional to flow (i.e. sample taken every "X" gallons of flow); and
4. Continuous collection of sample, with sample collection rate proportional to flow rate.

Daily Maximum (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.

DMR means Discharge Monitoring Report. EPA Form 3320-1, or a report filed electronically by an EPA-approved electronic system, which is used to report sampling data.

EPA or U.S. EPA means United States Environmental Protection Agency.

Existing Source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, which is not considered a New Source.

Flow Rate means the amount of water used in a day by the entire facility; including process, non-process, and sanitary water.

A **grab** sample, for monitoring requirements, is a single "dip and take" sample collected at a representative point in the discharge stream.

Indirect Discharge or **Discharge** means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Federal Clean Water Act.

An **instantaneous** measurement, for monitoring requirements, is a single reading, observation, or measurement.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes, use or disposal; and
2. Therefore is a cause of a violation of any requirement of the POTW's Surface Water Discharge permit (including an increase in the magnitude or duration of the violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 503 of the Federal Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

New Source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 c) of the Federal Clean Water Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of b or c of this section but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source has commenced if the owner or operator has:

- a. Begun, or caused to begin as part of a continuous onsite construction program:
 - (1) Any placement, assembly, or installation of facilities or equipment; or
 - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts of feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Pass Through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's Surface Water Discharge Permit (including an increase in the magnitude or duration of a violation).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes, or by other means, except as prohibited by ARSD Section 74:52:11:01, a.b.r. 40 CFR 403.6(d).

Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for the protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from the regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet the adjusted pretreatment limit calculated in accordance with ARSD Section 74:52:11:01, a.b.r. 40 CFR 403.6(e).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an Industrial User.

Pretreatment Standard or **Standard** means any regulation containing pollutant discharge limits adopted by the State in accordance with section 307(b) and (c) of the Federal Clean Water Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to ARSD Section 74:52:11:01, a.b.r. 40 CFR 403.5.

pH is the measure of the hydrogen ion concentration of water or wastewater; expressed as the negative log of the hydrogen ion concentration. A pH of 7 is neutral. A pH less than 7 is acidic, and a pH greater than 7 is basic.

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

Publicly Owned Treatment Works or **POTW** means a treatment works as defined by Section 212 of the Federal Clean Water Act, which is owned by the State or Municipality. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant.

POTW Treatment Plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

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

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

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage Sludge is any solid, semi-solid or liquid residue that contains materials removed from domestic sewage during treatment. Sewage sludge includes, but is not limited to, primary and secondary solids and sewage sludge products.

Significant Industrial User (SIU) means any industrial user discharging to a POTW that satisfies any of the following:

1. is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N or;
2. discharges an average of 25,000 gallons per day of process wastewater to the POTW, or discharges process wastewater contributing five percent or more of the average dry weather hydraulic or organic capacity of the POTW or;
3. is determined by the Control Authority to have a reasonable potential to adversely impact the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Slug Load or **Spill** means any discharge into the POTW of a non-routine, episodic nature, including but not limited to an accidental or non-customary batch discharge.

Technical Review Criteria (TRC) violations occur when thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH. TRC violations are considered Significant Non-Compliance (SNC).

TSS means **Total Suspended Solids**. TSS is a measure of the filterable solids present in a sample.

Total Toxic Organics or **TTO** means the summation of all quantifiable values greater than 0.01 milligrams per liter for the following toxic organics:

Acenaphthene	Bis (2-chloroethoxy) methane	1,2,5,6-Dibenzanthracene
Acrolein	Methylene chloride (dichloromethane)	(dibenzo(a,h)anthracene)
Acrylonitrile	Methyl chloride (chloromethane)	Indeno (1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
Benzene	Methyl bromide (bromomethane)	Pyrene
Benzenidine	Bromoform	Tetrachloroethylene
Carbon tetrachloride (tetrachloromethane)	(tribromomethane)	Toluene
Chlorobenzene	Dichlorobromomethane	Trichloroethylene
1,2,4-Trichlorobenzene	Chlorodibromomethane	Vinyl chloride (chloroethylene)
Hexachlorobenzene	Hexachlorobutadiene	Aldrin
1,2-Dichloroethane	Hexachlorocyclopentadiene	Dieldrin
1,1,1-Trichloroethane	Isophorone	Chlordane (technical mixture and metabolites)
Hexachloroethane	Naphthalene	4,4-DDT
1,1-Dichloroethane	Nitrobenzene	4,4-DDE (p,p-DDX)
1,1,2-Trichloroethane	2-Nitrophenol	4,4-DDD (p,p-TDE)
1,1,2,2-Tetrachloroethane	4-Nitrophenol	Alpha-endosulfan
Chloroethane	2,4-Dinitrophenol	Beta-endosulfan
Bis (2-chloroethyl) ether	4,6-Dinitro-o-cresol	Endosulfan sulfate
2-Chloroethyl vinyl ether (mixed)	N-nitrosodimethylamine	Endrin
2-Chloronaphthalene	N-nitrosodiphenylamine	Endrin aldehyde
2,4,6-Trichlorophenol	N-nitrosodi-n-propylamine	Heptachlor
Parachlorometacresol	Pentachlorophenol	Heptachlor epoxide (BHC-hexachlorocyclohexane)
Chloroform (trichloromethane)	Phenol	Alpha-BHC
2-Chlorophenol	Bis (2-ethylhexyl) phthalate	Beta-BHC
1,2-Dichlorobenzene	Butyl benzyl phthalate	Gamma-BHC
1,3-Dichlorobenzene	Di-n-butyl phthalate	Delta-BHC
1,4-Dichlorobenzene	Di-n-oxyyl phthalate	(PCB-polychlorinated biphenyls)
3,3-Dichlorobenzidine	Diethyl phthalate	PCB-1242 (Arochlor 1242)
1,1-Dichloroethylene	Dimethyl phthalate	PCB-1254 (Arochlor 1254)
1,2-Trans-dichloroethylene	1,2-Benzanthracene (benzo(a)anthracene)	PCB-1221 (Arochlor 1221)
2,4-Dichlorophenol	Benzo(a)pyrene (3,4-benzopyrene)	PCB-1232 (Arochlor 1232)
1,2-Dichloropropane	3,4-Benzofluoranthene	PCB-1248 (Arochlor 1248)
1,3-Dichloropropylene (1,3-dichloropropene)	(benzo(b)fluoranthene)	PCB-1260 (Arochlor 1260)
2,4-Dimethylphenol	11,12-Benzofluoranthene	PCB-1016 (Arochlor 1016)
2,4-Dinitrotoluene	(benzo(k)fluoranthene)	Toxaphene
2,6-Dinitrotoluene	Chrysene	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
1,2-Diphenylhydrazine	Acenaphthylene	
Ethylbenzene	Anthracene	
Fluoranthene	1,12-Benzoperylene (benzo(ghi)perylene)	
4-Chlorophenyl phenyl ether	Fluorene	
4-Bromophenyl phenyl ether	Phenanthrene	
Bis (2-chloroisopropyl) ether		

An **Unauthorized release** is a discharge from the lower end of the treatment or containment system through a release structure or over or through retention dikes that does not meet all permit conditions or effluent limits.

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.

User, Industrial User, or Pretreatment Industrial User means a source of Indirect Discharge.

1.0 EFFLUENT LIMITS AND MONITORING REQUIREMENTS

1.1 Description of Discharge Points

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a SWD permit is a violation of the South Dakota Water Pollution Control Act and could subject the person{s} responsible for such discharge to penalties under Section 34A-2-75 of the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within a reasonable time from the first learning of an unauthorized discharge could subject such person to criminal penalties as provided under the South Dakota Water Pollution Control Act.

Outfall

Serial Number	Description of Discharge Point
001	Any discharge from the facility's bluing system to the City of Sturgis sanitary sewer system. (Latitude 44.420278°, Longitude -103.556944°).

1.2 Effluent Limits Applicable to Entire Facility Effluent

Effective **immediately** and lasting through the life of this permit, the quality of wastewater discharged by the facility shall, as a minimum, meet the limits as set forth below:

1. There shall be no discharge of pollutants that cause pass through or interference at the POTW.
2. There shall be no discharge of pollutants that create a fire or explosion hazard at the POTW, including, but not limited to, wastestreams with a closed loop flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in ARSD Section 74:28:22:01 a.b.r. 40 CFR 261.21.
3. There shall be no discharge of pollutants that will cause corrosive structural damage to the POTW, but in no case shall discharges be allowed with a pH lower than 5.0 standard units or greater than 12.5 standard units.
4. There shall be no discharge of solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW causing interference.
5. There shall be no discharge of any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration that will cause interference with the POTW.
6. There shall be no discharge of heat in amounts that will inhibit biological activity at the POTW resulting in interference, and in no case shall there be heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F) unless SDDENR, upon request of the POTW, approves alternate temperature limits.
7. There shall be no discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.
8. There shall be no discharge of pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
9. There shall be no discharge of any trucked or hauled pollutants, except at discharge points designated by the POTW.

1.3 Effluent Limits – Outfall 001

Effective immediately and lasting through the life of this permit, the quality of effluent discharged from Outfall 001 shall, as a minimum, meet the limits as set forth below:

Effluent Characteristic	Effluent Limit	
	30-Day Average ¹	Daily Maximum ¹
Total Cadmium, mg/L	0.07	0.11
Total Chromium, mg/L	1.71	2.77
Total Copper, mg/L	2.07	3.38
Total Lead, mg/L	0.43	0.69
Total Nickel, mg/L	2.38	3.98
Total Silver, mg/L	0.24	0.43
Total Zinc, mg/L	1.48	2.61
Total Cyanide, mg/L	0.65	1.20
Total Toxic Organics ¹ , mg/L	N/A	2.13
The pH shall not be lower than 5.0 standard units or greater than 12.5 standard units.		

¹ See **Definitions**.

1.4 Self-Monitoring Requirements – Outfall 001

As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. All samples shall be taken before the process generated wastewater effluent either joins or is diluted by any other dilution stream, water, or substance. Test procedures for the analysis of pollutants shall conform to those codified in ARSD Section 74:52:03:06, a.b.r. 40 CFR Part 136. If no discharge occurs during the entire monitoring period, it shall be stated as such on the Discharge Monitoring Report Form (EPA No. 3320-1).

Parameter ¹	Frequency	Reporting Values ¹	Sample Type ¹
Flow Rate, gpd ²	Monthly	30-day Average; Daily Maximum	Continuous
Process Wastewater Flow, gpd ²	Daily When Discharging	30-day Average; Daily Maximum	Continuous
pH, standard units	Daily When Discharging	Daily Minimum; Daily Maximum	Instantaneous ³
Total Cadmium, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Chromium, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Copper, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab

¹ See **Definitions**, in the proposed Permit, for definition of terms.

² Flow rate is the water usage for the entire facility. Process wastewater flow is the water discharged at this outfall.

³ The pH is to be taken within 15 minutes of sample collection with a pH meter. The pH meter must be capable of simultaneous calibration to two points on the pH scale that bracket the expected pH and are approximately three standard units apart. The pH meter must read to 0.01 standard units and be equipped with temperature compensation adjustment. Readings shall be reported to the nearest 0.1 standard units.

⁴ These parameters shall be sampled and analyzed at least once every three months (January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 – December 31) or more often if necessary to obtain samples representative of the process wastestream.

Parameter ¹	Frequency	Reporting Values ¹	Sample Type ¹
Total Lead, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Nickel, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Silver, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Zinc, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	Grab
Total Cyanide, mg/L	Quarterly ⁴	30-day Average; Daily Maximum	4 Grabs ⁵
Total Toxic Organics, mg/L	Quarterly ⁴	Daily Maximum	4 Grabs ^{5,6}

⁵ Total Toxic Organics (TTO) and Cyanide grab samples may be composited by the laboratory immediately prior to analysis. A single grab sample may be used if obtaining 4 grab samples is infeasible. For TTOs, the permittee need only monitor for those toxics believed to be present in the discharge.

⁶ If a toxic organic management plan (TOMP) approved by SDDENR has been implemented, the permittee may submit, semiannually, the TTO certification statement in section 2.15.5 of the permit in lieu of monitoring for TTO pursuant to ARSD Section 74:52:11:01, a.b.r. 40 CFR 433.12. If the permittee cannot make the certification during a reporting period, sampling and analysis shall be required that period.

If sampling and analysis indicates a violation of any pollutant limit, the permittee shall notify SDDENR within 24 hours of becoming aware of the violation in accordance with **2.8 – Twenty-four Hour Notice of Noncompliance Reporting**, and repeat the sampling and analysis for that parameter within 30 days in accordance with **2.10 – Resampling Requirements**.

2.0 MONITORING, RECORDING AND REPORTING REQUIREMENTS

2.1 Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part 1.4 shall be collected from the effluent stream prior to discharge into the receiving POTW. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

2.2 Monitoring Procedures

Monitoring must be conducted according to test procedures approved under ARSD Section 74:52:03:06, a.b.r. 40 CFR, Part 136, unless other test procedures have been specified in this permit.

2.3 Reporting of Monitoring Results

1. Effluent monitoring results obtained during the previous 3 months shall be summarized for each quarter, reported on a Discharge Monitoring Report Form (as defined in **Definitions**), and submitted **semiannually**. These must be submitted no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, “no discharge” shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the **Signatory Requirements** (see **Part 2.14**), and submitted to the Secretary and city at the following addresses:

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

copy to: City of Sturgis
1057 Dudley Street
Sturgis, South Dakota 57785

Attention: Wastewater Superintendent

2. 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.

2.4 Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

2.5 Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under ARSD Section 74:52:03:06, a.b.r. 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

2.6 Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The initials or name(s) of the individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;
4. The time analyses were initiated;
5. The initials or name(s) of individual(s) who performed the analyses;
6. References and written procedures, when available, for the analytical techniques or methods used; and,
7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

2.7 Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Secretary at any time. Data collected on site, copies of Discharge Monitoring Reports, and a copy of this permit must be maintained on site during the duration of activity at the permitted location.

2.8 Twenty-four Hour Notice of Noncompliance Reporting

2. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the Secretary at (605) 773-3351 during regular business hours, or to South Dakota Emergency Management at (605) 773-3231 any other time.
3. The following occurrences of noncompliance shall be reported by telephone to the Secretary at (605) 773-3351 by the first workday (8:00 a.m. – 5:00 p.m. Central Time) following the day the permittee became aware of the circumstances:
 - a. Any unanticipated bypass which exceeds any effluent limit in the permit (See **Part 3.10 – Bypass of Treatment Facilities**);
 - b. Any upset which exceeds any effluent limit in the permit (See **Part 3.11 – Upset Conditions**); or
 - c. Violation of a maximum daily discharge limit for any of the pollutants listed in the permit to be reported within 24 hours; or
 - d. Any slug loads or spills that may enter the sanitary sewer. **In the event of slug loads or spills, the permittee shall also notify the receiving POTW immediately upon becoming aware of the slug load or spill;** or
 - e. Violation of any other permit condition.
4. A written submission shall also be provided within thirty (30) days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - e. 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, Pierre, (605) 773-3351.

- f. Reports shall be submitted to the addresses in **Part 2.3 – Reporting of Monitoring Results**.

The permittee shall give advance notice to the Secretary and the city of Sturgis of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2.9 Other Noncompliance Reporting

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for **Part 2.3** are submitted. The reports shall contain the information listed in **Part 2.8**.

2.10 Resampling Requirements

If sampling by the permittee indicates a violation of a maximum daily discharge limit for any of the pollutants listed in the permit, the permittee shall repeat the sampling and analysis for that parameter and submit the results of the repeat analysis to the addresses in **Part 2.3 – Reporting of Monitoring Results**, within 30 days after becoming aware of the violation.

2.11 Notification of Changed Discharge

The permittee shall promptly notify the Secretary and the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the permittee has submitted initial notification under ARSD Section 74:52:11:01, a.b.r. 40 CFR 403.12(p) (see **Part 2.13 – Notification of Hazardous Waste Discharge**.)

2.12 Changes in Discharge of Toxic Substances

Notification shall be provided to the POTW as soon as the permittee knows of, or has reason to believe that any activity has occurred or will occur which would result in the discharge of a toxic pollutant, as defined in ARSD Section 74:52:01:01, which is not limited in the permit and if that discharge will exceed the highest of the following notification levels:

1. One hundred micrograms per liter (100 µg/L);
2. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile;
3. Five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol;
4. One milligram per liter (1 mg/L) for antimony; or
5. Five (5) times the maximum concentration value reported for that pollutant in the permit application.

2.13 Notification of Hazardous Waste Discharge

1. The permittee shall notify the POTW, the EPA Regional Waste Management Division Director, and SDDENR Waste Management Program in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under ARSD Section 74:28:22:01 a.b.r. 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in ARSD Section 74:28:22:01 a.b.r. 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the permittee discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the permittee: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve months. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported under **2.3 – Reporting of Monitoring Results**.

2. The permittee is exempt from the requirements of paragraph 1 of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in ARSD Section 74:28:22:01 a.b.r. 40 CFR 261.30(d) and 261.33(e).
3. In case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the permittee must notify the POTW, the EPA Regional Waste Management Division Director, and the SDDENR Waste Management Program, at the addresses in **2.3 – Reporting of Monitoring Results**, of the discharge of such substance within 90 days of the effective date of such regulations.
4. In the case of any notification made under this section, the permittee shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

2.14 Signatory Requirements

All applications, reports or information submitted to the Secretary shall be signed and certified.

1. All permit applications shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
 - 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 permit and other information requested by the Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Secretary; 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 plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph 2.14.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph 2.14.2 must be submitted to the Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. 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. TTO Certification. Any facility with a TOMP the permittee may submit, semiannually, the following certification statement in lieu of monitoring for TTO:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation (or pretreatment standard) for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since the filing of the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the permitting authority.”

3.0 COMPLIANCE RESPONSIBILITIES

3.1 Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance.

3.2 Penalties for Violations of Permit Conditions

Any person who violates a permit condition shall, upon conviction, be punished by a Class 1 misdemeanor. In addition to a jail sentence authorized by SDCL 22-6-2, a Class 1 misdemeanor imposed by SDCL, Chapter 34A-2, is 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, for damages to the environment of this state, or both. Except as provided in permit conditions on **Part 3.10 – Bypass of Treatment Facilities** and **Part 3.11, Upset Conditions**, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

3.3 Duty to Mitigate

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

3.4 Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

3.5 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 permit.

3.6 Removed Substances

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. These materials must be disposed of in accordance with the Solid Waste regulations (SDCL 34A-6) and Hazardous Waste regulations (SDCL 34A-11).

3.7 Duty to Provide Information

The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this permit.

3.8 Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Secretary, it shall promptly submit such facts or information.

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

3.10 Bypass of Treatment Facilities

1. Bypass not exceeding limits. The permittee may allow any bypass to occur which does not cause effluent limits to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 60 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under **Part 2.8 – Twenty-four Hour Notice of Noncompliance Reporting**.
3. Prohibition of bypass.
 - a. Bypass is prohibited and the Secretary may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (3) The permittee submitted notices as required under paragraph 2 of this section.
 - b. The Secretary may approve an anticipated bypass, after considering its adverse effects, if the Secretary determines that it will meet the three conditions listed above in paragraph 3.a of this section.

3.11 Upset Conditions

1. Effect of an upset. 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 that 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 **Part 2.8 – Twenty-four Hour Notice of Noncompliance Reporting**; and
 - d. The permittee complied with any remedial measures required under **Part 3.3 – 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.

3.12 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. This notification applies to pollutants which are not subject to effluent limits in the permit. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source (see ARSD, Chapter 74:52:01:01(30)).

3.13 Anticipated Noncompliance

The permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3.14 Permit Actions

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

3.15 Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

3.16 Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Secretary, it shall promptly submit such facts or information.

3.17 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 permit shall be available for public inspection at the offices of SDDENR and EPA. Permit applications, permits and effluent data shall not be considered confidential.

3.18 Property Rights

The Secretary's issuance of this 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. The State does not warrant that the permittee's compliance with this permit, design criteria, approved plans and specifications, and operation under this 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 severally liable for all damage, injury or use of private property, invasion of personal rights, infringement of federal, state or local laws and regulations, or taking or condemnation of property owned by third parties, which may result from actions taken under the permit.

3.19 Severability

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

3.20 Transfers

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

1. The current permittee notifies the Secretary at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
3. The Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

3.21 Reopener Provision

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

1. Pretreatment Standards Promulgation: Pretreatment standards or requirements which apply to wastestreams which the permittee discharges are modified or promulgated in such a manner as to require different effluent limits or requirements than contained in the permit.
2. Local Limits Development: It is determined that local limits developed specifically for the receiving POTW must be incorporated or modified in order protect the POTW.
3. Changes in operation: Material or substantial alterations occur to the permittee's operation, processes, discharge volume, or discharge characteristics which were not considered in drafting the effective permit.
4. 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 permit.
5. Other Changes: Other conditions or standards change so that the discharge no longer qualifies for this 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.

4.0 PENALTIES FOR NONCOMPLIANCE

4.1 Penalties for Violations of Permit Conditions

Any person who violates a permit condition shall, upon conviction, be punished by a Class 1 misdemeanor. In addition to a jail sentence authorized by SDCL 22-6-2, a Class 1 misdemeanor imposed by SDCL, Chapter 34A-2, is 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, for damages to the environment of this state. Except as provided in permit conditions on **Part 3.10 – Bypass of Treatment Facilities** and **Part 3.11 – Upset Conditions**, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

4.2 Penalties for Tampering

Any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit is in violation of the provisions of SDCL 34A-2-77, 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.

4.3 Penalties for Falsification of Reports

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 permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a Class 1 misdemeanor. In addition to a jail sentence authorized by SDCL 22-6-2, a Class 1 misdemeanor imposed by SDCL, Chapter 34A-2, is 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, for damages to the environment of this state, or both.

4.4 Oil and Hazardous Substance Liability

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

4.5 Local Laws

Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable local law, ordinance, or regulation.