

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

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

SDS-000001

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,

CITY OF SIOUX FALLS AND SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

are authorized to discharge storm water from the municipal separate storm sewer system owned and operated by the city of Sioux Falls and the interstate highway system operated and maintained by the South Dakota Department of Transportation

to the Big Sioux River, Skunk Creek, Spring Creek, Covell Lake, unnamed tributaries of the Big Sioux River, Skunk Creek, and Covell Lake, and wetlands

in accordance with discharge point(s), monitoring requirements and other conditions set forth herein.

This permit shall become effective **November 1, 1999**.

This permit and the authorization to discharge shall expire at midnight, **September 30, 2004**.

Signed this 15th day of November, 1999.



Authorized Permitting Official

Nettie H. Myers
Secretary
Department of Environment and Natural Resources

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PART I

A. COVERAGE UNDER THIS PERMIT

1. Authority to Discharge

Under this permit, beginning immediately and lasting through the life of this permit, the city of Sioux Falls and the South Dakota Department of Transportation (SDDOT) are authorized to discharge storm water and allowable non-storm water discharges from all portions of their municipal separate storm sewer system (MS4) and interstate highways in accordance with the approved storm water management programs, and other provisions set forth herein.

2. Discharges Covered Under this Permit

This permit is intended to authorize new or existing discharges composed entirely of storm water (and allowable non-storm water discharges) from Sioux Falls' MS4 and SDDOT's interstate highways. This permit also allows the discharge of storm water commingled with flows contributed by process wastewater or storm water associated with industrial activity, provided such discharges are authorized under separate Surface Water Discharge (SWD) permits or National Pollutant Discharge Elimination System (NPDES) permits and are in compliance with provisions of those permits.

3. Permit Area

This permit covers all areas within the corporate boundary of the city of Sioux Falls served by, or otherwise contributing, to discharges to state waters from municipal separate storm sewers owned or operated by the city of Sioux Falls and interstate highways operated by SDDOT.

B. TERMS AND CONDITIONS

The permittee's compliance with all provisions of this permit will, for the term of the permit, be deemed by the secretary to be in compliance with the South Dakota Water Pollution Control Act in effect as of the effective date of this permit. The following requirements shall apply to all discharges authorized by this permit.

1. Storm Water Management Program Requirements

The permittees shall operate the following Storm Water Management Programs. The programs and program areas as submitted by the permittees, and all approved updates, are hereby incorporated by reference including any additions or changes made by the secretary.

The following information shall be addressed under the storm water management program within six months of the issue date of the permit.

1. A comprehensive planning process that involves both public participation and intergovernmental coordination;
2. A description of management practices, control techniques, and system design and engineering methods to reduce the discharge of pollutants to the MEP; and
3. A description of staff and equipment available to set up and assess the storm water management program.

a. Public Education Program.

The city of Sioux Falls shall update and submit the Public Education Program for approval within 12 months from the effective date of this permit. The program shall include the following areas:

- 1) A plan to promote and facilitate public reporting of the presence of illicit discharges or improper disposal of materials into the MS4.
- 2) A plan to promote the proper management and disposal of used motor vehicle fluids and household chemical wastes.
- 3) A plan to promote the proper use, application, and disposal of pesticides, herbicides, and fertilizers by commercial and private applicators and distributors.

Within six months of the program's approval, all elements of this program shall be implemented.

b. Commercial/Residential Management Program

The city of Sioux Falls shall update and submit the Commercial/Residential Management Program for approval within 28 months of the effective date of this permit. The program shall include the following program areas:

- 1) Maintenance of Structural Controls. The city of Sioux Falls shall update and implement a program of routine maintenance activities for municipally owned structural controls to reduce pollutants (including floatables) in discharges from the MS4. This program shall include a schedule of these activities.
- 2) New Development Planning Procedures. The city of Sioux Falls shall update and implement a more comprehensive and detailed planning procedures and enforcement controls to reduce the discharge of pollutants after construction is complete, from areas of new development and significant redevelopment. This program shall address water quality components of the storm water controls and clearly:
 - a) Identify management objectives for streams, wetlands, and other receiving waters;
 - b) Identify areas where urban development is likely to occur and areas that are sensitive to the effects of urbanization. Consideration should be given to receiving waters, topography, soil types, ground water uses and potential impacts, and other relevant factors;
 - c) Describe standards such as design criteria and performance standards for storm water controls for new developments, such as buffer zones, open space preservation, erosion and sediment controls, etc.;
 - d) Describe other measures to minimize the effects of new development on storm water quality (these may include local code and ordinance requirements; and
 - e) Identify or discuss the site development review process for the evaluation and approval of storm drainage or storm water management programs. Requirements in drainage or storm water management programs can be coordinated with review of other related plans such as those for site grading or landscaping.

- 3) Public Street and Interstate Highway Maintenance. The city of Sioux Falls and South Dakota Department of Transportation shall operate and maintain public streets, roads, highways and interstate highways in a manner so as to reduce the discharge of pollutants (including those related to road repair, street sweeping, snow removal, sanding activities and herbicide application) in accordance with this program area.
- a) Snow and ice management practices on streets, roads, and highways shall be developed and implemented and should include prescriptions for sand application rate, maximum salt concentrations, calibration of sand spreaders, sweeping of sanded streets, and the identification of pollutants discharged as a result of deicing activities;
 - b) Salt and salt/sand storage practices for SDDOT shall be modified to use such controls as impervious pads with berms or covered salt storage facilities as necessary to minimize run-on, run-off and salt migration off-site;
 - c) Herbicide, pesticides, and fertilizers use along roadways shall be minimized. Applications of herbicides, pesticides, and fertilizers shall be performed during dry-weather periods to the extent possible, using methods to limit overspray;
 - d) Leaf litter, debris, and sand on all streets shall be swept at a minimum of two times per year, once in the spring and once in the fall;
 - e) Sweeper wastes shall be disposed of properly. Recycling of sweeper wastes for reuse shall be considered; and
 - f) SDDOT shall review the FHWA document Evaluation and Management of Highway Runoff Water Quality, FHWA-PD-96-032, June 1996, and submit a report detailing the applicable operations and construction of highways in Sioux Falls. SDDOT shall implement those practices that they identify as applicable and provide a schedule of implementation, if necessary.
- 3) Assess Impacts of Flood Management Projects. The city of Sioux Falls shall update and implement a more comprehensive assessment plan and implement the procedures to assure that the impact on water quality is assessed for proposed flood management projects. Existing structural control projects shall be evaluated to determine if retrofitting for water quality enhancements are feasible based on costs and available land space. All reasonable measures identified by the report shall be implemented.
- a) Steps to be taken to identify the projects;
 - b) How the study/analysis is conducted; and
 - c) How feasibility is determined.
- 5) Pesticide, Herbicide, and Fertilizer Application. The permittees shall implement controls to reduce the discharge of pollutants related to application of pesticides, herbicides, and fertilizers, including preparation and distribution of educational materials and training of city and state staff.

Within six months of the program's approval, all elements of this program shall be implemented.

c. Illicit Discharges Management Program

The city of Sioux Falls shall develop and submit the Illicit Discharges Management Program for approval within 24 months of the effective date of this permit. This program shall include the following program elements:

- 1) Prevention of Illicit Discharges and Improper Disposal. The city of Sioux Falls shall implement an ongoing program to detect and remove (or require the discharger to the MS4 to obtain a separate SWD permit for) illicit discharges and improperly disposed materials into the MS4 in accordance with this program area.
 - a) Inspection Schedule; and
 - b) Public Education
- 2) Ongoing Field Screening. The city of Sioux Falls shall implement an ongoing program to screen the MS4 for illicit discharges, illegal dumping and illicit connections.
 - a) The city shall develop a plan and schedule for on-going dry weather screening to be submitted and approved by DENR;
 - b) The city shall track the number and type of illicit connections found and eliminated. This information shall be submitted with the annual report; and
 - c) The city shall identify and provide education for known dry weather pollutant dischargers to the storm sewer system. (i.e. power washers, carpet cleaning, pavement cutting, graffiti removal, and concrete pouring – washing concrete truck chutes, concrete pumping trucks, tools, etc.)
- 3) Investigation of Suspected Illicit Discharges. The city of Sioux Falls shall implement this program area to locate and eliminate suspected sources of illicit connections and improper disposal.
 - a) Results of dry-weather screening and citizen reports shall be used as the primary basis for locating illicit connections and improper disposal;
 - b) All reports of illicit discharges (including dumping) from citizens, and other information made available to the city, shall be evaluated and receive appropriate follow up;
 - c) Field testing to identify and isolate sources of suspected illicit discharge shall be performed in a timely manner;
 - d) Notice of violation shall be given to the party found responsible for the illicit discharge;
 - e) Sioux Falls shall require an expeditious compliance schedule for elimination of the discharge by the responsible party; and
 - f) Failure to comply as defined in the Sioux Falls ordinances and rules shall be cause for legal action.
- 4) Procedures to Prevent, Contain and Respond to Spills. The permittees shall implement a program to prevent, contain, and respond to spills that may discharge into the MS4 in accordance with this program area.

- 5) Public Reporting of Illicit Discharges. The permittees shall promote and facilitate public reporting of the presence of illicit discharges, illegal dumping, and illicit connections to the MS4, consistent with Part I.B.1.a.1).
- 6) Public Educational Activities to Promote the Proper Management and Disposal of Toxic Materials. The city of Sioux Falls shall report on any city-sponsored Used Motor Vehicle Fluid and Household Chemical Waste Collection Programs, as a part of the annual report. The following items shall be included: dates of collection, what kinds of materials were accepted, what measures were taken to publicize the event, amount of collected materials, number of vehicles or citizens that contributed waste, ultimate disposal of the waste, cost of the operation, and plans for the next year.
- 7) Control of Sanitary Sewer Seepage into the Municipal Separate Storm Sewer System. The city of Sioux Falls shall implement a program to detect and eliminate sources of sanitary sewer seepage into the MS4.

Within six months of the program's approval, all elements of this program shall be implemented.

d. Industrial Facilities Program

The permittees shall develop and submit the Industrial Facilities Program for approval within 28 months of the effective date of this permit. This program shall identify, monitor, and control pollutants in storm water discharges to the MS4 from industrialized facilities that are not controlled by a SD SWD permit that the permittees determine may contribute pollutants to the municipal storm sewer system.

Within six months of the program's approval, all elements of this program shall be implemented.

e. Construction Sites Program

The permittees shall update and submit the Construction Sites Program for approval within 24 months of the effective date of this permit. This program shall include the following program elements to reduce the discharge of pollutants from public and private construction sites.

- 1) Procedures for Site Planning. The permittees shall develop and implement procedures for site planning that incorporate consideration of potential water quality impacts from construction sites within Sioux Falls and SDDOT highway projects;
 - a) Sioux Falls shall rely upon existing city ordinances and rules to integrate into the development review process the requirements for storm water quality control plans, which include erosion and sediment control, and material containment and spill prevention;
 - b) SDDOT should use the FHWA document Evaluation and Management of Highway Runoff Water Quality, FHWA-PD-96-032, June 1996, as a guide for integrating controls into their development process for projects within Sioux Falls;
 - c) Storm water quality control plans for construction sites shall be subject to review and approval by the city upon request;
 - d) Project Review and Approval Procedures shall be prepared for use by Sioux Falls and SDDOT personnel. The procedures shall include:
 - i) written criteria and standards for site plan approval;
 - ii) description of the site plan review and approval process; and

- iii) plans for staff training on implementation of the procedure.
- e) Apply for the necessary state storm water construction permits for construction projects that disturb five or more acres. Once Phase II regulations are in effect, permit coverage for construction sites smaller than five acres shall be obtained.
- 2) Structural and Non-structural Best Management Practices (BMPs). The permittees shall develop requirements for the selection, implementation, installation, and maintenance of appropriate BMPs at construction sites.
- 3) Procedures for Site Inspection and Enforcement. The permittees shall implement procedures for inspection and enforcement of control measures at construction sites. The program must be clarified to determine if an inspection is completed on every site after a rain event. If not, the criteria or factors used to decide which site is to be inspected and what will cause a deviation from the said criteria.
- 4) Training and Education for Construction Site Operators. The permittees shall implement the following areas.
 - a) A plan to develop, support and encourage attendance at an education and training program for construction site operators; and
 - b) The permittees shall notify city officials and construction site owners or their agents of their potential responsibilities under the SWD permitting program for construction site runoff.

Within six months of the program's approval, all elements of this program shall be implemented.

- f. Municipal Facility Runoff Control Program. The permittees shall develop and submit a Municipal Facility Runoff Control Program for approval within 28 months of the effective date of this permit.
 - 1) The permittees shall develop and implement runoff control plans for the following city-owned and/or operated facilities and for SDDOT facilities that do not have independent SWD storm water permits:
 - a) vehicle maintenance facilities (maintenance includes equipment rehabilitation, mechanical repairs, painting, fueling and lubrication);
 - b) exposed stockpiles of materials, including stockpiles of road deicing salt, salt and sand, sand, rotomill material; and
 - c) sites used for snow dumps, and/or for temporary storage of sweeper tailings or other waste piles.
 - 2) The city of Sioux Falls shall provide a complete list of these facilities (including the address of the facility, type of operation, size of the facility, and receiving water drainage basin). This list shall indicate which sites are considered "major" and which are considered "minor", and set out the reasons for the designations.
 - 3) Runoff control plans for "major" facilities shall contain the following:
 - a) Activity description
 - b) Facility site map
 - c) Description of potential pollutant sources including an evaluation of that potential.

- d) Storm Water Management Controls. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:
 - Runoff control plan administrator
 - Preventive maintenance
 - Good housekeeping
 - Spill prevention and response procedures
 - Best management practices for pollutant sources
 - Evaluation for non-storm water discharges
 - Employee training
 - e) Inspection procedures
 - f) Reporting procedures. An annual report of overall conformity with the runoff control plan shall be submitted by each plan administrator to the city's MS4 contact person, by January 1 of each year.
- 4) "Minor" facilities shall be grouped together by type, and one runoff control plan shall be developed for each group. Grouped runoff control plans shall contain:
- a) Map. Show the location of each facility in the group on a map of the city.
 - b) Group Description. Include the address of the facility, type of operation, size of the facility, and receiving water drainage basin.
 - c) Description of potential pollutant sources including an evaluation of that potential.
 - d) Storm Water Management Controls. The description of the standard operating procedures or storm water management controls shall address the following components if appropriate:
 - Preventive maintenance measures
 - Good housekeeping
 - Spill prevention and response procedures
 - Best management practices
 - Evaluation for non-storm water discharges
 - e) Inspection Procedures.
- 5) Copies of the "major" facility runoff control plans shall be kept on the facility site and on file with the MS4 contact person. They shall be submitted to the secretary upon request.
- 6) Copies of the "minor" facility group runoff control plans shall be kept on file with the MS4 contact person. They shall be submitted to the secretary upon request.
- 7) Both major and minor facilities shall be inspected by the city of Sioux Falls at least once each year, after the runoff control plan is completed.
- 8) The city of Sioux Falls must implement the provisions of the runoff control plans required under this part as a condition of this MS4 permit. The secretary reserves the right to review those plans, and to require additional measures to prevent and control pollution as needed.
- 9) Runoff control plans may be amended at any time, with the revised plans distributed as outlined in paragraphs 5 and 6, above.

- 10) The city of Sioux Falls shall summarize the conformity of facilities (both major and minor) with their runoff control plans in each year's annual report.

Within six months of the program's approval, all elements of this program shall be implemented except the runoff control plans. The runoff control plans shall be completed and implemented according to the following schedule: 10 percent of the facilities within 6 months of the program approval, another 40 percent within 18 months of the program approval, and the remaining 50 percent within 30 months of the program approval. A list of these facilities shall be submitted with the annual report.

2. Legal Authority

The permittees shall insure legal authority exists and is maintained to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, contract, or order to:

- a. Control the contribution of pollutants to the MS4 by storm water discharges associated with industrial activity and the quality of storm water discharged from industrial activity sites;
- b. Prohibit illicit discharges to the MS4;
- c. Control the discharge of spills and the dumping or disposal of materials other than storm water into the MS4;
- d. Require compliance with conditions in ordinances, permits, contracts or orders; and
- e. Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance with conditions in this permit.

3. Resources

The permittees shall provide adequate finances, staff, equipment, and support capabilities to implement the Storm Water Management Program.

C. PROGRAM REVIEW AND MODIFICATION

1. Review and Approval of Plans and Reports

Any plans or reports that are prepared as a condition of this permit shall be submitted to the secretary for review and approval.

- a. Within 30 days of the submittal, the secretary may notify the permittees that the plan or report does not meet one or more of the minimum requirements of this permit;
- b. Such notification shall identify which provisions of the submittal require modification; and
- c. Within 30 days, or a later date agreed to by the secretary, of such notification from the secretary, the permittees shall make the required changes and re-submit the plan or report.

2. Annual Program Review

The permittees shall conduct an annual review of the current programs in conjunction with the preparation of the annual report required under Part I.F. This annual review shall include:

- a. A review of program implementation and compliance (or non-compliance) with all schedules of compliance contained in this permit;
- b. An assessment of the effectiveness of controls established by the program;
- c. A review of dry-weather field screening results and wet-weather monitoring data; and
- d. An assessment of any program modifications needed.

3. Program Modification

Only those portions of the Storm Water Management Program specifically required as permit conditions shall be subject to the modification requirements. Addition of the following components, controls, or requirements by permittees shall be considered minor changes to the plan and not modifications to the permit: replacement of an ineffective or infeasible BMP, implementing a requirement of the SWMP with an alternate BMP expected to achieve the goals of the original BMP, and changes required as a result of schedules contained in Part I of this permit.

- a. Modifications shall not become enforceable permit conditions until such time as the modifications are formally approved; and
- b. Modification requests and/or notifications shall be signed in accordance with Part I.G.

D. WET-WEATHER MONITORING

The city of Sioux Falls shall develop and submit a wet-weather monitoring program containing the Monitoring Program Permit Requirements for the MS4 within 12 months of the effective date of this permit. This program shall assess wet-weather conditions, particularly urban storm water effects on state waters. Within six months of the program's approval, all elements of the program shall be implemented. If the city of Sioux Fall submits a variation from the following program that is approved, that program will become the enforceable permit requirement.

1. Monitoring Program Permit Requirements

The city of Sioux Falls shall continue to monitor the following parameters listed in Table 1 at the three outfalls under the monitoring program requirements (Table 5 of the Statement of Basis) twice a year. Time-composite or flow-composite samples can be used, but the type of sample selected shall be identified in the monitoring program. These parameters are to be monitored at the three approved instream monitoring sites twice a year during the same rain event as the outfall sites are monitored. The instream monitoring sites include the upstream site, the downstream site, and at the confluence of Skunk Creek and the Big Sioux River. This monitoring program shall be used until such time another program has been approved.

TABLE 1 Parameters Required To Be Monitored During Wet Weather Runoff			
<i>Alkalinity</i>	<i>Biochemical Oxygen Demand (5-day) (BOD₅)</i>	<i>Total Cadmium</i>	<i>Chemical Oxygen Demand (COD)</i>
<i>Chloride</i>	<i>Total Residual Chlorine</i>	<i>Total Chromium</i>	<i>Total Coliform</i>
<i>Conductivity</i>	<i>Total Copper</i>	<i>Total Dissolved Solids (TDS)</i>	<i>Fecal Coliform</i>
<i>Fecal</i>	<i>Hardness</i>	<i>Total Kjeldahl Nitrogen</i>	<i>Total Lead</i>

TABLE 1 Parameters Required To Be Monitored During Wet Weather Runoff			
<i>Streptococcus</i>			
<i>Total Nitrogen</i>	<i>Nitrate plus Nitrite</i>	<i>Total Organic Carbon</i>	<i>Total Petroleum Hydrocarbons</i>
<i>pH (field)</i>	<i>Total Phenols</i>	<i>Dissolve Phosphate</i>	<i>Total phosphate</i>
<i>Sulfate</i>	<i>Total Suspended Solids (TSS)</i>	<i>Total Zinc</i>	

If the city of Sioux Falls becomes aware of new companies or the change of operations in a company, which may contribute additional pollutants or pollutants listed in Tables II, III, or IV of Appendix D (toxic pollutants, total phenols, and certain conventional and non-conventional pollutants) in the storm water discharges, the city must notify the department within 48 hours. These tables are listed in Attachment A of the statement of basis.

2. Reporting and Evaluation

- a. **Annual Reporting:** The permittees shall submit a report on the monitoring program to the secretary, as a part of the annual report in accordance with Part I.F.:
 - 1) tabulated data generated from the monitoring program; and
 - 2) a summary of the monitoring program work to date, any problems with the protocol or selected sampling locations, and recommendations for any changes to the monitoring program.
- b. **Reporting for Year Four:** The report submitted in year four of the permit (submitted by April 1, 2004, covering January through December 2003), shall include:
 - 1) items 1 and 2 above;
 - 2) an assessment of the effects of wet-weather discharges on the Sioux Falls area's state waters and an assessment of the changes over time; and
 - 3) a proposal for a monitoring program for the next permit term.

E. COMPLIANCE SCHEDULE

Except as provided below, compliance with the terms and conditions of this permit, including the storm water management programs, shall be required by the effective date of the permit. Where dates in the compliance schedule and in the text of the permit conflict, the dates in the compliance schedule are deemed correct.

The compliance schedule detailed in Table 2, below, includes submittals of plans and implementation of permit conditions.

In the case of required plans, the permittees shall submit the plan to the secretary by the specified date. A schedule of dates to accomplish various tasks related to the plan, including implementation, should also be included. The secretary shall review the plans and determine if the plan contents address all the requirements as outlined in the permit in accordance with Part I.C.1. Upon approval of the implementation plan by the secretary, all terms and conditions of the implementation plan, including but not limited to the compliance schedule, shall automatically become conditions of this permit.

In the case of required implementation or actions, no later than 30 calendar days following each date identified in the schedule of compliance (excluding those requiring notification within the annual report only), the permittees shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

TABLE 2
Compliance Schedule

Permit Condition	Activity	Deliverable	Date Due
Part I.B.1.a - Public Education Program	Update and Submit Plan	Plan	12 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.B.1.b - Commercial/Residential Management Program	Update and Submit Plan	Plan	28 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.B.1.c - Illicit Discharge Management Program	Develop and Submit Plan	Plan	24 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.B.1.d - Industrial Facility Program	Develop and Submit Plan	Plan	28 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.B.3.e. - Construction Site Program	Update and Submit Plan	Plan	24 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.B.1.f - Municipal Facility Runoff Control Program	Develop and Submit Plan	Plan	28 months from effective date
	Implement Plan	notification	6 months from approval date
Part I.D.1. - Monitoring Program	Develop and Submit Plan	Plan	12 months from effective date
	Implement Plan	notification	6 months from approval date

F. REPORTING REQUIREMENTS - ANNUAL REPORT

The permittees shall prepare an annual system-wide report to be submitted by April 1 of each year, covering January 1 through December 31 of the previous year. The first report is due April 1, 2001. The report shall include the following separate sections:

1. The implementation status of each the components of the Storm Water Management Programs that are established as permit conditions (status of compliance with any schedules established under this permit shall be included in this section) and shall include specific quantitative measures where possible;
2. Proposed changes to the Storm Water Management Programs that are established as permit conditions, including an update on areas added to the MS4 due to annexation or other legal means;
3. Revisions, if necessary, to the assessments of controls and the fiscal analysis reported in the permit application under 6.5.3(3)(b)(v) and (vi);
4. A summary of the data, including monitoring data, that is accumulated throughout the reporting year;
5. List of the facilities with runoff control plans as required under this permit at Part I.B.1.f, a summary of conformity with their plans, and a summary of any significant plan revisions;
6. Summary of educational activities (see Part I.B.1.a);
7. Annual expenditures for the past reporting year, and budget for the next reporting year;
8. A summary of the number and nature of enforcement actions and inspections;
9. The wet-weather reporting requirements as listed in Part I.D; and
10. Identification of water quality improvements or degradation.

G. CERTIFICATION AND SIGNATURE OF REPORTS

1. **Signatory Requirements.** All reports required for submittal shall be signed and certified for accuracy by the permittees in accordance with the following criteria:
 - a. Principal executive officer, or ranking elected official; or
 - b. A duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1) The authorizations made in writing by a person described above and submitted to the secretary.
 - 2) The authorization specifies either an individual or a position as having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the city.
 - 3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the city, a new notice satisfying the requirements of this section must be submitted to the secretary prior to or together with any reports, information or applications to be signed by an authorized representative.

Amended February 9, 2000
Effective February 9, 2000

2. **Certification.** Any person signing documents under paragraph 1 of this section shall make 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 submitted, it 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."

H. REPORTING: WHERE TO SUBMIT

Annual reports and all other documents required by the terms and conditions of this permit shall be signed in accordance with Part I.G. of this permit and submitted to the following address:

SD Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capital
Joe Foss Building
Pierre, SD 57501

A copy of the Annual Report shall also be submitted to:

U.S. EPA, Region 8 (8EPR-EP)
Storm Water Staff
999 18th Street, Suite 500
Denver, CO 80202-2466

I. RETENTION OF RECORDS

The permittees shall retain the latest approved version of the Storm Water Management Programs developed in accordance with Part I of this permit until at least three years after coverage under this permit terminates. The permittees shall retain all records of all monitoring information, copies of all reports required by this permit, and records of all other data required by or used to demonstrate compliance with this permit for at least three years after the data has been obtained. This period may be explicitly modified by alternative provision of this permit or extended by request of the secretary at any time.

J. DEFINITIONS

1. **Best management practices (BMPs):** schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the state". BMPs 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. BMPs include structural and nonstructural controls.
2. **Bypass** means the intentional diversion of waste streams from any portion of a treatment facility, which is not a designed or established operating mode for the facility.
3. **Department:** the South Dakota Department of Environment and Natural Resources.
4. **Discharge:** an addition of any "pollutants" or combination of pollutants to "surface waters of the state" from any "point source".

5. **Illicit discharge:** any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except the following: discharges specifically authorized by a SWD permit and allowable non-storm water discharges as discussed at Part I.A.2.
6. **MEP** is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems established by CWA §402(p).
7. **MS4** means municipal separate storm sewer system.
8. **Municipal separate storm sewer** means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - a) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters;
 - b) designed or used for collecting or conveying storm water; or
 - c) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2 as adopted by reference in ARSD 74:52.
9. **Owner or Operator:** a person who owns, leases, operates, controls or supervises a facility.
10. **Point Source:** 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.
11. **Program** means any of the storm water management programs that are required by this permit.
12. **Significant Materials** include but are not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of Comprehensive Environmental Resource Conservation Liability Act (CERCLA); any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.
13. **Storm Water** is precipitation-induced surface runoff.
14. **Waters of the State:** 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 CFR 423.11(m) (July 1, 1991).

PART II

A. PERMITTEE RESPONSIBILITIES

1. Duty To Comply

1. The permittees must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the South Dakota Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal. The permittees shall give the Secretary advance notice of any planned changes at the permitted facility or of an activity that may result in permit noncompliance.
2. 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.
3. 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.

2. Duty to Mitigate

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

3. Proper Operation and Maintenance

The permittees 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 permittees to achieve compliance with the conditions of this permit.

4. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittees in an enforcement action that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

5. Inspection and Entry

The permittees shall allow the secretary, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where any records are required to be kept under the terms and conditions of this permit;
- b. Have access to and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit, and to inspect any monitoring equipment or monitoring method required in the permit; and

- c. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect and/or investigate any actual, suspected, or potential source of water pollution, or to ascertain compliance or non-compliance with the South Dakota Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the secretary. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing of any person having knowledge related to the discharge permit or alleged violation, and access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or alleged violation.

The secretary shall split samples taken by the secretary during any investigation with the permittees if requested to do so by the permittees.

6. Duty to Reapply

The permittees shall submit a permit renewal application at least one hundred eighty (180) days before this permit expires.

7. Duty to Provide Information

The permittees 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 permittees shall also furnish to the secretary, upon request, copies of records kept as required by this permit.

B. NOTIFICATION, REPORTING AND ADMINISTRATIVE REQUIREMENTS

1. Availability of Reports

Except for data determined to be confidential under ARSD 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 the secretary. The secretary will not consider applications, management plans and monitoring data, or any correspondence related to these items to be confidential information.

2. Penalties for Falsification of Reports

- a. Where the permittees failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the secretary, the permittees shall promptly submit the relevant information which was not submitted or any additional information needed to correct any erroneous information previously submitted.
- b. Any person who knowingly makes a false statement in any record submitted or required to be maintained under this permit shall be subject to enforcement under the South Dakota Water Pollution Control Act.

3. Monitoring and Records

- a. Monitoring must be conducted according to test procedures approved under ARSD 74:52:03:06 a.b.r. 40 CFR Part 136, unless other test procedures have been approved by the secretary.
- b. If the permittees monitor more frequently than required by the permit, using approved test procedures or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of data to the secretary.
- c. Records of monitoring information shall include:

- 1) The date, exact place, and time of sampling or measurements;
- 2) The individual(s) who performed the sampling or measurements;
- 3) The dates the analyses were performed;
- 4) The individual(s) who performed the analyses;
- 5) The analytical techniques or methods used; and
- 6) The results of such analyses.

- d. The permittees shall retain for a minimum of three (3) years records of all monitoring information, including all strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittees or when requested of the secretary.

C. MODIFICATION OR TERMINATION OF PERMIT

1. The filing of a request by the permittees for a permit modification, termination, revocation and reissuance, inactivation or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
2. All permit modification, termination or revocation and reissuance actions shall be subject to the requirements of the ARSD 74:52:04, except for minor modifications.
3. This permit may be modified, suspended, or terminated in whole or in part during its term for reasons determined by the secretary including, but not limited to, the following:
 - a. Violation of any terms or conditions of the permit;
 - b. Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit; or
 - c. Materially false or inaccurate statements of information in the permit application or the permit.
 - d. A determination that the permitted activity endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by permit modifications or termination.
4. This permit may be modified in whole or in part for the following causes:
 - a. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - b. The secretary has received new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance.
 - c. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

- 1) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a Commission action with respect to the water quality standard or effluent limitation on which the permit condition was based; or
 - 2) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concerns that portion of the regulations or guidelines on which the permit condition was based and a request is filed within ninety (90) days of judicial remand.
- d. The secretary determines that good cause exists to modify a permit condition because of events over which the permittees has no control and for which there is no reasonable available remedy.
5. At the request of a permittees, the secretary may modify or terminate a permit and issue a new permit if the following conditions are met:
- a. The EPA has been notified of the proposed modification or termination and does not object in writing within thirty (30) days of receipt of notification;
 - b. The secretary finds that the permittees have shown reasonable grounds consistent with the federal and state statutes and regulations for such modification or termination;
 - c. Requirements of public notice have been met.

D. CONSISTENCY WITH OTHER LAWS AND REGULATIONS

1. **Property Rights**

This permit does not convey any property rights, nor any exclusive privileges, such as any injury to private property, any invasion of personal rights, or any infringement of federal, state or local laws or regulations.

2. **Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittees from any responsibilities, liabilities, or penalties to which the permittees is or may be subject under Section 311 (Oil and Hazardous Substance Liability) of the Federal Clean Water Act.

3. **Removed Substances**

Removed substances shall be disposed of in accordance with the Administrative Rules of South Dakota, Article 74:27 (solid waste).

4. **Severability**

Any portion of this permit that is found to be void, or is challenged, shall not affect the validity of the various permit requirements that are not void or challenged.

5. **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. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. Total Maximum Daily Load: A Total Maximum Daily Load is developed and approved by the State and/or EPA for incorporation in this permit.
3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limits than contained in this permit.