

**North Dakota Department of Environmental Quality Public Notice  
Reissue of an NDPDES Permit**

Public Notice Date: 11/14/2021

Public Notice Number: ND-2021-034

**Purpose of Public Notice**

The Department intends to reissue the following North Dakota Pollutant Discharge Elimination System (NDPDES) Discharge Permit under the authority of Section 61-28-04 of the North Dakota Century Code.

**Permit Information**

Application Date: 6/30/2021

Application Number: NDP000080

Applicant Name: Bobcat Cylinders

Mailing Address: 210 1st Ave NE, Gwinner, ND 58040

Telephone Number: 701.678.6481

Proposed Permit Expiration Date: 12/31/2026

**Facility Description**

Bobcat Cylinders operates a regulated metal finishing operation that requires a permit issued under the North Dakota Pollution Discharge Elimination System program. This permit is for the discharge of process wastewater after treatment from the metal finishing operation to Wahpeton's Publicly Owned Treatment Works.

**Tentative Determinations**

Proposed effluent limitations and other permit conditions have been made by the Department. They assure that State Water Quality Standards and applicable provisions of the FWPCA will be protected.

**Information Requests and Public Comments**

Copies of the application, draft permit, and related documents are available for review. For further information on making public comments/public comment tips please visit: <https://deq.nd.gov/PublicCommentTips.aspx>. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 4201 Normandy Street, Bismarck ND 58503-1324 or by calling 701.328.5210.

All comments received by December 14, 2021 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

**STATEMENT OF BASIS FOR NDPDES PERMIT NDP000080**  
**January 2022**

**BOBCAT COMPANY – BOBCAT CYLINDERS**  
**Industrial Pretreatment (Categorical Industrial User)**

**INTRODUCTION**

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) oversees. In 1975, the State of North Dakota was delegated primacy of the NPDES program by the EPA. The North Dakota Department of Environmental Quality, hereafter referred to as “department”, has been designated the state water pollution control agency for all purposes of the CWA as amended [33 U.S.C. 1251, et seq.], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of the act and similar federal acts. The department’s authority and obligations for the wastewater discharge permit program is in North Dakota Administrative Code (NDAC) article 33.1-16, which was adopted under North Dakota Century Code (NDCC) chapter 61-28. In North Dakota, these permits are referred to as North Dakota Pollutant Discharge Elimination System (NDPDES) permits.

This facility falls under the Industrial Pretreatment Program, which is under the NDPDES program. The department was delegated pretreatment authority from the EPA in 2005. The following regulations apply to NDPDES permits issued to Significant and/or Categorical Industrial Users:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01);
- North Dakota Pretreatment Regulations (NDAC chapter 33.1-16-01.1);
- Code of Federal Regulations (CFR) General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR Section 403).

These rules require industrial users that introduce pollutants into publicly owned treatment works (POTWs) comply with applicable Pretreatment Standards and Requirements. To protect POTWs an industrial user permit or similar control mechanism must be obtained prior to discharge. Regulations adopted by the state also define the basis for limits on each discharge and for other requirements imposed by the permit.

According to NDAC section 33.1-16-01-08, the department must prepare a draft permit and accompanying statement of basis and make it available for public review. The department must also publish an announcement (public notice) during a period of thirty days, informing the public where a draft permit may be obtained and where comments regarding the draft permit may be sent (NDAC section 33.1-16-01-07). For more information regarding preparing and submitting comments about the statement of basis and permit, please see **Appendix A – Public Involvement**. Following the public comment period, the department may make changes to the draft NDPDES permit. The department will summarize the responses to comments and changes to the permit in **Appendix E – Response to Comments**.

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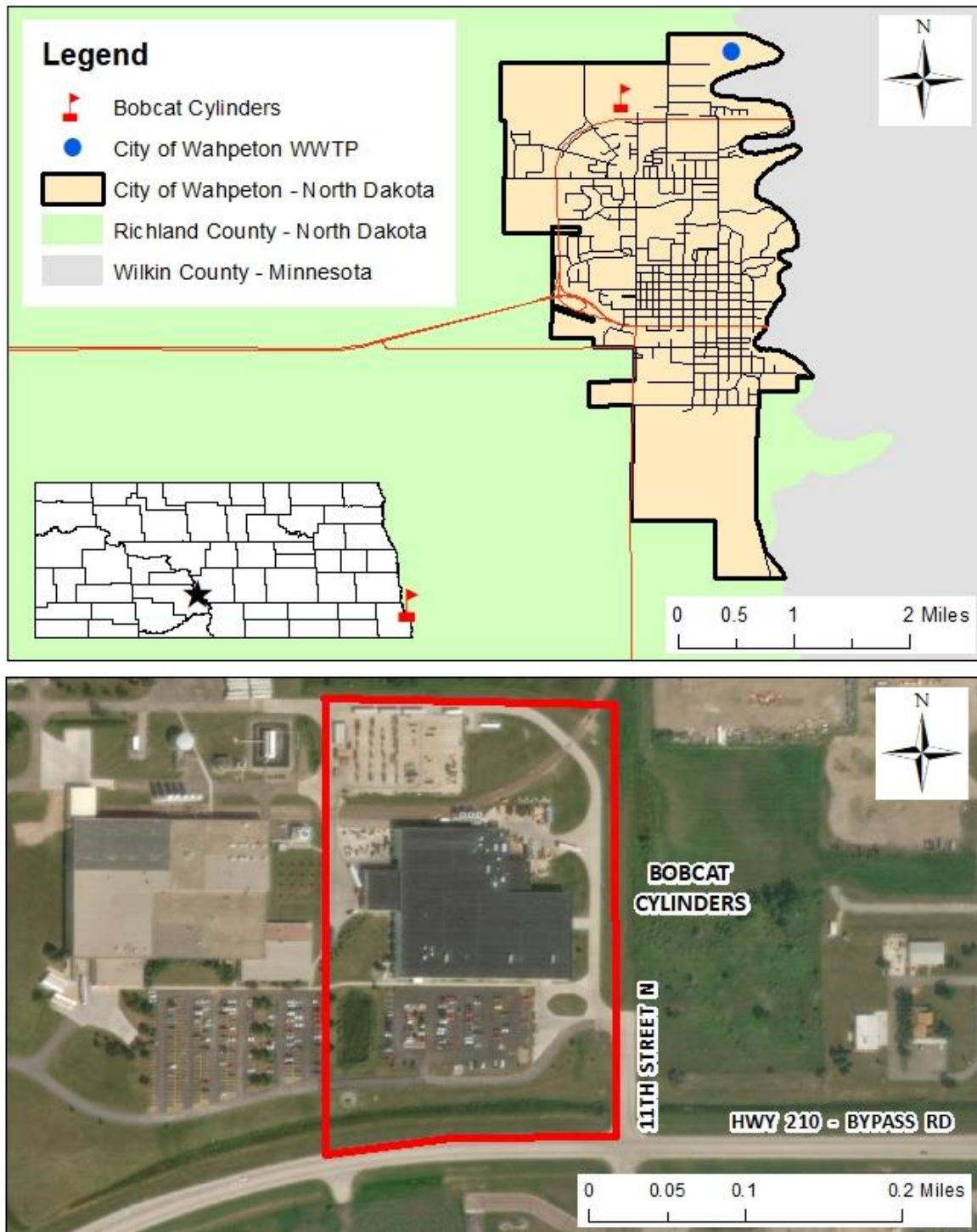
**BACKGROUND INFORMATION**

**Table 1 – General Facility Information.**

<b>Applicant:</b>	Bobcat Company – Bobcat Cylinders
<b>Facility Name and Address:</b>	Bobcat Company – Wahpeton 2101 11th Street North Wahpeton, ND 58075
<b>Owner:</b>	Bobcat Company - Wahpeton
<b>Operator:</b>	Bobcat Company - Wahpeton
<b>Facility Contact(s):</b>	Kevin Bopp EHS Manager 701.678.1638
<b>Standard Industrial Classification Code(s):</b>	3531, Construction Machinery and Equipment
<b>North American Industrial Classification System Code(s):</b>	333120, Construction Machinery Manufacturing
<b>Industrial User Type:</b>	Categorical Industrial User
<b>Applicable Categorical Standards:</b>	40 CFR 433.17 – Metal Finisher, Pretreatment Standards for New Sources
<b>NDPDES Permit Number:</b>	NDP000080
<b>Permit Type:</b>	Minor, Pretreatment

**Table 2 – Receiving POTW Information.**

<b>Receiving POTW:</b>	City of Wahpeton
<b>Facility Name and Address:</b>	City of Wahpeton Publicly Owned Treatment Works (POTW) 1900 4th Street North Wahpeton, ND 58075
<b>Facility Contact(s):</b>	Dennis Miranowski Public Works Director 701.642.6565



**Figure 1** – Location overview of Bobcat Cylinders in Wahpeton, North Dakota. Data sources: ND GIS Hub and Esri Server – Accessed October 25, 2021.

## DESCRIPTION OF OPERATIONS

Bobcat Cylinders in Wahpeton, ND manufactures hydraulic cylinders and valves used in Bobcat loaders, excavators, and attachments. The main activities at the facility include metal fabrication; equipment assembly; metal finishing; process water treatment; shipping, receiving and storage of raw materials and finished products.

### Pretreatment Processes

The following wastewater streams are treated onsite and batch discharged from Bobcat Cylinders to the City of Wahpeton POTW:

- Washdown
- Boiler blowdown
- Cooling tower blowdown
- RO (reverse osmosis) reject
- Manufacturing/process

A flow diagram illustrating these processes in sequential order can be found in Appendix D – Figure 2.

The primary source of wastewater production is the six stage metal parts/cylinder washdown. A flow diagram further describing these stages and denoting the chemicals used in the washing process is in Appendix D – Figure 3.

Washdown water (process water) is sent through the onsite treatment system. Process and pit water pumped into the surge tank is transferred into the neutralization tanks, pH adjusted and sent through the clarifier to separate out zinc and other impurities. Sludge from the clarifier is dewatered in a filter press, formed into cakes and hauled off site by Harsco/Clean Earth. Wastewater from the clarifier is collected in a holding tank and monitored throughout discharge. The facility utilizes inline pH and turbidity meters to ensure effluent is within the permitted limits.

In the event of a spill, leak or slug, the contents would collect in the pit, and the processed wastewater can be rerouted back through the treatment system (via the surge tank). Semiannual metals and Total Toxic Organics samples are also collected and sent to Minnesota Valley Testing Laboratories (MVTL) for analysis.

Bobcat has expressed interest in installing a new pretreatment system and has been instructed to continue to communicate the progress on this matter with the department.

### Outfall Description

The authorization to discharge wastewater provided under this permit is limited to the outfall(s) specifically designated as the permitted discharge location(s). Discharges at any location not authorized under a NDPDES permit is a violation of the CWA and could subject the person(s) responsible for such discharge to penalties under Section 309 of the CWA. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within

the specified timeframe outlined in this permit could subject such person(s) to criminal penalties as provide under the CWA.

**Table 3 – Outfall Description**

<b>Outfall 001A – Active</b>			
Latitude: 46.291404	Longitude: -96.616848	County: Richland	
Township: 133 North	Range: 47 West	Section: 32	Q: A
Description: This compliance point (outfall) is located on the internal effluent pipe post pretreatment processing and prior to the POTW. Facility batch discharges to the City of Wahpeton POTW.			

**Production Rate**

The Bobcat Cylinder site produces a variety of products for Doosan Bobcat along with other original equipment manufacturer the plants daily production in 2021 averages about 2100 products per day, with an outlook for 2022 to have a slight increase. Production occurs seven days per week, 12 months per year. The maximum daily process flow rate is 13,299 gallons with ~ 2.6 million gallons of process wastewater discharged per year to the POTW.

**PERMIT STATUS**

Bobcat Cylinders was initially regulated under permit-by-rule by the department in 2010. On January 1, 2017, an individual pretreatment permit was issued to the facility. The previous permit had effluent limits for the following parameters: Flow Rate (Process and Total), pH, Cadmium (Total), Chromium (Total), Copper (Total), Lead (Total), Nickel (Total), Silver (Total), Zinc (Total), Cyanide (Total), and TTOs. On June 30, 2021, the department received a completed renewal application (Appendix C – Sample Permit Application Form) from Bobcat Cylinders which was accepted by the department on July 7, 2021.

This facility is a Categorical Industrial User and is therefore subject to pretreatment regulations described in NDAC 33.1-16-01.1. The department proposes to reissue an individual pretreatment permit to Bobcat Company – Bobcat Cylinders that allows process wastewater discharge to the City of Wahpeton POTW.

The permittee is required to submit an effluent characterization for all parameters contained in 40 CFR 433.17 with the application for permit renewal. These results shall be recorded on the Discharge Monitoring Reports (DMRs) provided by the department. If the permittee’s production processes should change or expand, or chemical additives are changed, the department reserves the right to review and adjust the required monitoring. The permittee shall promptly notify the department and the POTW in advance of any substantial change in the volume or character of pollutants in the permittee’s discharge as outlined in 40 CFR 403.12(j).

**SUMMARY OF COMPLIANCE WITH PRETREATMENT REGULATIONS AND**

**CATEGORICAL LIMITS**

Four inspections were conducted for this facility during the recent permit cycle. In 2018, 2019, 2020 and 2021 inspections were conducted by the department. No findings or corrective actions

resulted from the 2018, 2019 and 2020 inspections. On the 2021 inspection report the department noted the flow measuring apparatus experienced significant foam build up leading to mis-recording of flow volume and the facility lacked a spare parts inventory. These items were instructed to be reviewed and addressed at the facility's earliest convenience. The department's assessment of compliance is based on a review of the facility's DMR forms, and the inspections conducted by the department.

### **Past Discharge Data**

Table 4 (below) summarizes the data for each permit parameter from the Discharge Monitoring Reports submitted during the recent permit cycle. Upon review, discrepancies were found for all reported parameters, except Total Toxic Organics (TTO) and pH. The facility has been reporting the minimum daily value for the lab tested metals (except TTO) instead of the required maximum daily value. A sample was taken once per month at the facility; therefore, the reported daily maximum should match the reported maximum monthly average value. Considering all discrepancies and misreports, no exceedances were denoted throughout the last permit cycle.



**Table 4** – Previous permit limits and Discharge Monitoring Report data summary from Outfall 001A January 1, 2017 – December 31, 2021.

Parameter	Permit Daily Limit	DMR Max Daily Value	Permit 30-day Limit	DMR Max Monthly Average Value	Total Exceedances
Cadmium Total (mg/L)	0.11	0.0005*	0.07	0.001	0
Chromium Total (mg/L)	2.77	0.05*	1.71	0.25	0
Copper Total (mg/L)	3.38	0.05*	2.07	0.25	0
Lead Total (mg/L)	0.69	0.0005*	0.43	0.0012	0
Nickel Total (mg/L)	3.98	0.04*	2.38	0.2	0
Silver (mg/L)	0.43	0.0005*	0.24	0.001	0
Zinc (mg/L)	2.61	0.05*	1.48	1.56	0
Cyanide (mg/L)	1.20	0.02*	0.65	0.05	0
Total Toxic Organics (TTO) (mg/L)	2.13	0.444	NA	NA	0
pH (S.U.)	5.0 – 12.5 at all times	Min: 6.43 Max: 9.38	NA	NA	0
Drain (Mgal/6 months)	NA	3,019,500	NA	NA	NA
Flow Rate (gal/day)	NA	3,019,500	NA	518,250	NA
Notes: * No hits/below detection level					

**PROPOSED LIMITS AND SELF-MONITORING REQUIREMENTS**

The permittee requires wastewater monitoring from its metal wash process – a categorical industrial user designation covered under 40 CFR Part 433.17 Metal Finishing Point Source - Pretreatment Standards for New Sources (PSNS). PSNS limits applicable to the metal finishing category became effective on September 26, 1983. The concentration of the process-wastewater pollutants from the facility’s treatment system shall not exceed the values set forth in the above referenced subpart in addition to complying with 40 CFR Part 403 (with the exception of 40 CFR 403.7). These limits are outlined in table 5 below.

**Table 5** – Applicable Pretreatment Standards for New Sources under 40 CFR 433.17 – Metal Finishing Point Source.

<b>Pollutant or pollutant property</b>	<b>Maximum for any 1 day (mg/L)</b>	<b>Maximum Monthly average shall not exceed (mg/L)</b>
Cadmium, Total	0.11	0.07
Chromium, Total	2.77	1.71
Copper, Total	3.38	2.07
Lead, Total	0.69	0.43
Nickel, Total	3.98	2.38
Silver, Total	0.43	0.24
Zinc, Total	2.61	1.48
Cyanide, Total	1.20	0.65
Total Toxic Organics (TTO)	2.13	--

**Local Limits**

Pollutant loading from wastewater discharge with technology-based controls in place is not expected to cause problems such as interference, pass-through, or hazardous exposure to workers at the City of Wahpeton POTW, nor result in unacceptable pollutant levels in the POTW’s sludge. Currently, no local limits are in place for this facility.

**Effluent Limitations**

This permit defines one compliance point. Outfall 001A (see table 3), where Flow, Drain, pH and all pollutant/pollutant properties are to be sampled. Table 6 defines the effluent limitation and pretreatment standards for all sampled variables as defined by the receiving POTW and 40 CFR 433.17.

**Table 6 – Effluent Limitations – Outfall 001A – Effective January 1, 2022**

<b>Pollutant or pollutant property</b>	<b>Daily Maximum</b>	<b>Maximum Monthly Average</b>
Cadmium, Total (mg/L)	0.11	0.07
Chromium, Total (mg/L)	2.77	1.71
Copper, Total (mg/L)	3.38	2.07
Lead, Total (mg/L)	0.69	0.43
Nickel, Total (mg/L)	3.98	2.38
Silver, Total (mg/L)	0.43	0.24
Zinc, Total (mg/L)	2.61	1.48
Cyanide, Total (mg/L)	1.20	0.65
Total Toxic Organics <sup>a/</sup> (TTO) (mg/L)	2.13	--
Flow, process (Mgal/day)	Report	
Drain (Mgal/6 months)	Report	
pH (S.U.)	Shall remain between 5.0 and 12.5	
Notes: <sup>a/</sup> Organic compounds comprising TTO are defined in 40 CFR 433.11(e). The sample results for TTO shall be reported as the summation of all quantifiable values greater than 0.01 mg/L for the listed compounds. The permittee need analyze for only those pollutants which would reasonably be expected to be present.		

Samples and measurements shall be representative of the nature of the regulated wastewater discharge. All compliance samples and measurements shall be taken of the process generated wastewater effluent prior to combining with any other streams. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the CWA codified in 40 CFR 136.

**Self-Monitoring Requirements**

**Discharge Authorization**

During the effective period of this permit, the permittee is authorized to discharge pollutants from the described outfall(s) to the City of Wahpeton POTW.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have clearly been identified in the permit application process.

The permittee is required to collect samples that are representative of the discharged process wastewater. Samples shall be taken during a normal workday when typical operations are in progress and the usual process wastewaters are generated.

The minimum monitoring schedule is detailed below in Table 7 for Outfall 001A. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, pollutant significance, and monitoring cost.

**Table 7 – Monitoring Requirements – Outfall 001A**

Parameter	Sample Type	Frequency
Cadmium, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Chromium, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Copper, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Lead, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Nickel, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Silver, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Zinc, Total (mg/L)	Composite <sup>a/</sup>	Semiannually
Cyanide, Total (mg/L)	4Grab <sup>b/ d/</sup>	Semiannually
Total Toxic Organics (TTO) (mg/L) <sup>c/</sup>	4Grab <sup>b/ e/</sup>	Semiannually
Flow, process (Mgal/day)	Calculated	Daily
Drain (Mgal/6 months)	Calculated	Semiannually
pH (S.U.) <sup>f/ g/</sup>	Instantaneous	Continuous
<p>Notes:</p> <p><sup>a/</sup> Composite sample must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of twelve (12) separate grab samples and proportioned as to flow. Sampling may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.</p> <p><sup>b/</sup> Grab sample must be representative of the process wastestream and shall be a single, discrete sample collected over a period not exceeding 15 minutes. A minimum of four (4) separate grab samples for each parameter shall be taken and proportioned as to flow.</p> <p><sup>c/</sup> Organic compounds comprising TTO are listed in 40 CFR 433.11(e). The sample results for TTO shall be reported as the summation of all quantifiable values greater than 0.01 mg/L for the listed compounds. The permittee need analyze for only those pollutants which would reasonably be expected to be present.</p> <p><sup>d/</sup> Grab samples for cyanide shall be composited in the laboratory or in the field immediately prior to analysis.</p> <p><sup>e/</sup> Grab samples for TTO shall be composited in the laboratory.</p> <p><sup>f/</sup> The department has determined that, based on best professional judgement, continuous pH monitoring consisting of recordings no less than once every 10 minutes is representative of the facility's discharge (Appendix C).</p>		

<sup>g/</sup> The pH, an instantaneous limitation, shall be between 5.0 and 12.5 S.U. The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances. Individual pH readings shall be recorded no less than once per 10-minutes during periods of discharge; all excursions measured within this 10-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 10-minutes period thereafter in which one or more excursions have been measured.

## OTHER PERMIT CONDITIONS

### General Prohibition

The permittee shall not introduce into a POTW any pollutant(s) which may cause pass through or interference.

### Specific Prohibition(s)

The following pollutants may not be introduced into the POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges.
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
4. Any pollutant released in a discharge at a flow rate or pollutant concentration which will cause interference.
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (104 degree Fahrenheit), unless the department, upon request of the POTW, approves alternate temperature limits.
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or passthrough.
7. Pollutants which 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.
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

### **Dilution Prohibition**

The permittee is prohibited from diluting wastewater effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

### **Reporting Requirements**

Reporting requirements are found in NDAC 33.1-16-01.1-12. Additional reporting requirements may be implemented by the control authority. Conditions are based on the authority to specify any appropriate reporting requirements to prevent and control waste discharges.

#### **pH**

The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances from Outfall 001A for each reporting period. Individual pH exceedances shall be determined within 10-minute time intervals on the basis of the assigned monitoring requirements (Table 6).

A single pH exceedance shall be noted upon pH falling outside of the assigned limits for a period less than or equal to 10 minutes; all excursions measured within this 10-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 10-minute period thereafter in which one or more excursions have been measured.

The facility shall notify the POTW and department of each pH excursion, regardless of length of time, as required in **Section II.F(1) Twenty-four Hour Notice of Noncompliance Reporting** of the permit. These requirements are subject to modification by the department in order to protect the receiving POTW.

### **Operations and Maintenance**

Proper operation and regular maintenance ensures constructed facilities are used to their optimum potential in terms of pollutant capture and treatment. An Operation and Maintenance (O & M) Manual shall be required. This manual shall detail procedures for sampling during or prior to the discharge of wastewater. The manual shall list the person responsible for sampling and identify a list of responsible parties to notify in the event of a pretreatment process failure. This manual shall be kept on site and be updated should sampling procedures change.

### **Spill and Slug Discharge Control Plan**

The department has the authority to require the permittee to develop best management practices to prevent a slug discharge or a spill release as stated in NDAC 33.1-16-01.1-Appendix A. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge. Where required, the permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages if such a discharge/spill occurs. The plan shall include the following:

1. A description of discharge practices for batch and continuous processes under normal and non-routine circumstances;
2. A list of all raw materials, products, chemicals, and hazardous materials used, processed, or stored at the facility; the normal quantity maintained on the premises for each listed material and a map showing where they are located;
3. Procedures for immediately notifying the publicly owned treatment works of slug discharges, including any discharge that would violate a prohibition under subsection 2 of section 33.1-16-01.1-02, with procedures for follow up written notification within five days; and
4. Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

The results of any slug discharge or spill shall be available to the department upon request. The most recent spill and slug discharge control plan on file for this facility was enacted September of 2020. If this plan does not reflect the spill and slug discharge control protocol for this facility, a new plan should be submitted within one year of any process changes that would require changes be made to this information.

### **Public Notification of Significant Noncompliance**

A list of all industrial users that were in significant noncompliance with Pretreatment Standards or Requirements during any portion of a reporting period may be annually published by the department in a local newspaper. Accordingly, the permittee is apprised that noncompliance with this permit may result in publication of the noncompliance (NDAC Chapter 33.1-16-01.1-Appendix A).

## **PERMIT ISSUANCE PROCEDURES**

### **Permit Modifications**

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition.



**Proposed Permit Issuance**

This proposed permit meets all statutory requirements for the department to authorize a wastewater discharge. The department recommends this permit be issued for a term of five (5) years and shall expire on 12/31/2026.

## APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to issue an industrial user wastewater discharge permit to **Bobcat Company – Bobcat Cylinders**. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the department's rationale for requiring a permit.

The department placed a Public Notice of Draft on **November 14, 2021** in **Wahpeton, The Daily News** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and statement of basis.

The notice –

- Tells where copies of the draft Permit and Statement of Basis are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges people to submit their comments before the end of the comment period.
- Informs the public that if there is significant interest, a public hearing will be scheduled.

You may obtain further information from the department by telephone, 701.328.5240 or by writing to the address listed below:

North Dakota Department of Environmental Quality  
Division of Water Quality  
4201 Normandy Street  
Bismarck, ND 58503

The primary author of this permit and statement of basis is Emilee Lachenmeier.

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All comments received by December 14, 2021 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

**APPENDIX B – DEFINITIONS Pretreatment Permit - BP 2020.11.12**

1. "**Act**" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].
2. "**Approval authority**" means the department.
3. "**Best management practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
4. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
5. "**Categorical industrial user**" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. "**Categorical pretreatment standard**" or "**categorical standard**" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. "**Control authority**" means either:
  - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
  - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. "**Director**" means the department.
10. "**DMR**" means discharge monitoring report.
11. "**EPA**" means the United States Environmental Protection Agency.
12. "**Indirect discharge**" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.

13. "**Industrial user**" or "**user**" means a source of indirect discharge.
14. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
  - a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
  - b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.
15. "**New source**" means:
  - a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
    - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
    - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
    - (3) The production or wastewater generating processes of the building, structure, facility or installation is 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.
  - b. 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 paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
  - c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
    - (1) Begun, or caused to begin as part of a continuous onsite construction program:
      - (a) Any placement, assembly, or installation of facilities or equipment; or
      - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - (2) 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 for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

16. "**Passthrough**" means a discharge which exits the publicly owned treatment works 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 publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "**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 publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a 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 an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders 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.
23. "**Significant industrial user**" means:

- a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;
  - b. Any other industrial user that meets at least one of the following criteria:
    - (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;
    - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
    - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
  - c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
    - (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
    - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
    - (3) The industrial user never discharges any untreated concentrated wastewater.
  - d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.
24. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.
25. "**Water management division director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

### **APPENDIX C – CALCULATIONS**

The department reviewed DMR information, NDAC 33.1-16, 40 CFR Part 403, and 40 CFR Part 423 to determine appropriate requirements to be placed in this permit.

pH Monitoring Basis: The department reviewed Bobcat Cylinder's discharge monitoring reports and pH logs. Upon review of these records, it was concluded that a 10-minute limit for monitoring pH as well as denoting singular exceedances would be representative of the discharge from Bobcat Cylinders. The pH monitoring requirements are further defined in "Reporting Requirements" and Table 7.



APPENDIX D – FLOW DIAGRAMS

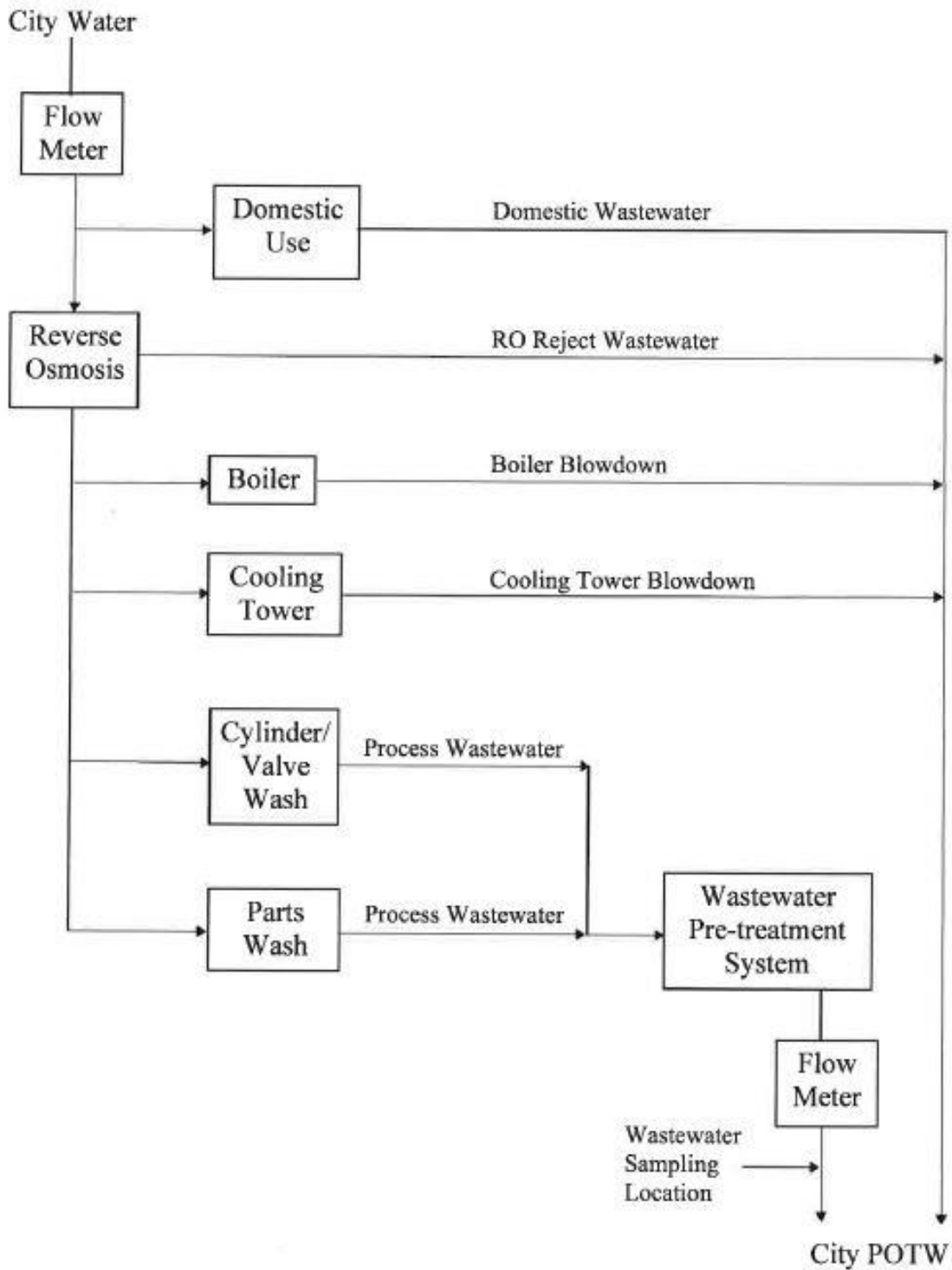
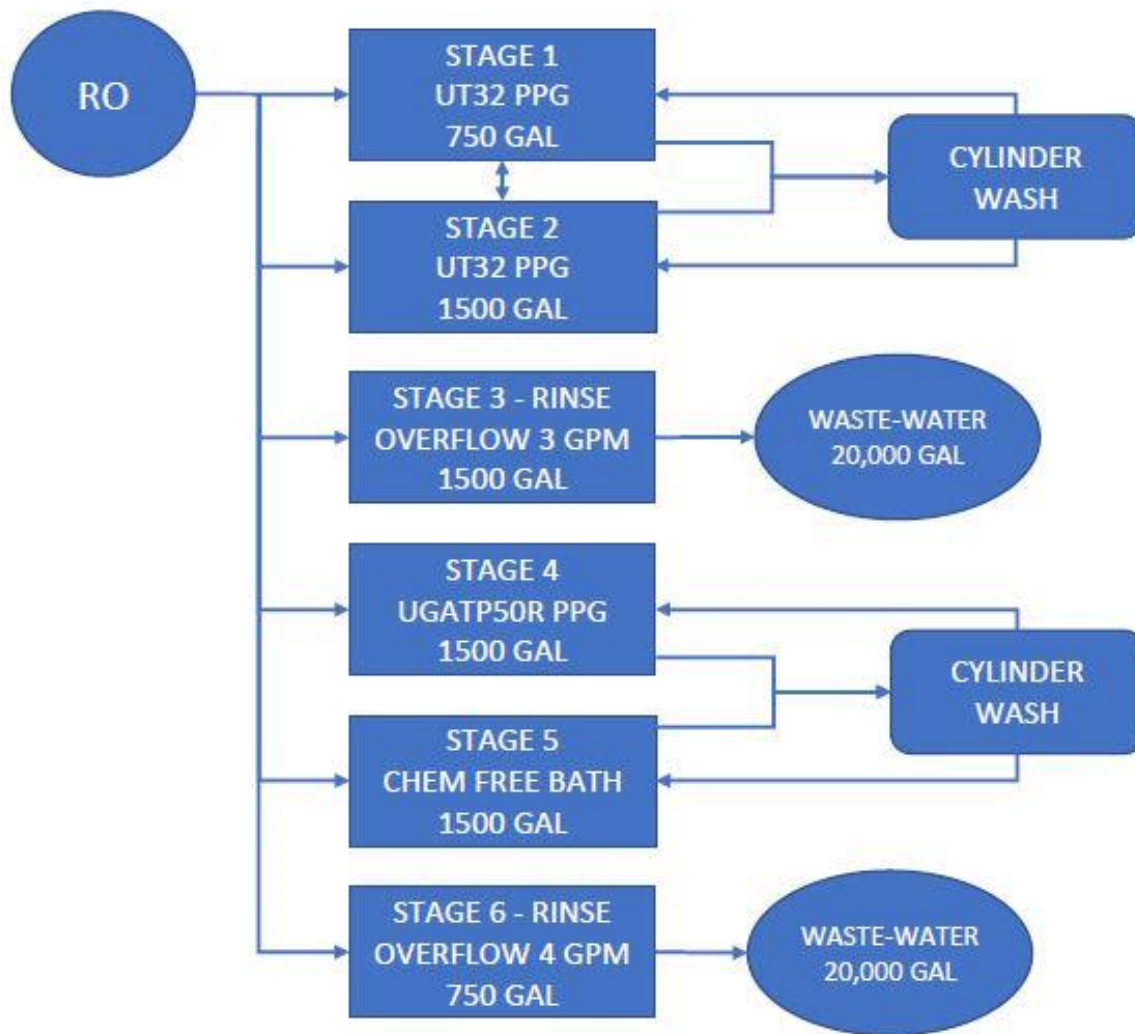
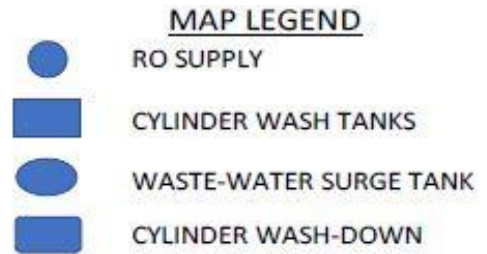


Figure 2 – Process flow diagram for Bobcat Cylinders.



\*Note: Stages 1, 2, 4, and 5 are drained yearly to Waste-water surge tanks

**Figure 3** – Cylinder wash line flow diagram. Created by: Austin Habermel

**APPENDIX E – RESPONSE TO COMMENTS**

Comments received during the public comment period will be placed here.

Permit No: NDP000080  
Effective Date: January 1, 2022  
Expiration Date: December 31, 2026

AUTHORIZATION TO DISCHARGE UNDER THE  
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01 of the North Dakota Department of Environmental Quality rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

Bobcat Company – Bobcat Cylinders  
2101 11th Street North  
Wahpeton, ND 58075

is authorized to discharge from its facility in Wahpeton, North Dakota  
  
to the City of Wahpeton Publicly Owned Treatment Works  
  
provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,  
December 31, 2026

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Karl H. Rockeman, P.E.  
Director  
Division of Water Quality

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## DEFINITIONS Pretreatment Permit - BP 2020.11.12

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3. "**Best management practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
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5. "**Categorical industrial user**" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. "**Categorical pretreatment standard**" or "**categorical standard**" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. "**Control authority**" means either:
  - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
  - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
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13. "**Industrial user**" or "**user**" means a source of indirect discharge.

14. **"Interference"** means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:

- a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
- b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.

15. **"New source"** means:

- a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
  - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
  - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility or installation is 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.
- b. 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 paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
- c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
  - (1) Begun, or caused to begin as part of a continuous onsite construction program:
    - (a) Any placement, assembly, or installation of facilities or equipment; or
    - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (2) 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 for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.



16. "**Passthrough**" means a discharge which exits the publicly owned treatment works 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 publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "**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 publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a 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 an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders 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.
23. "**Significant industrial user**" means:
  - a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;
  - b. Any other industrial user that meets at least one of the following criteria:

- (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;
  - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
  - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
- c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
- (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
  - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
  - (3) The industrial user never discharges any untreated concentrated wastewater.
- d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.
24. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.
25. "**Water management division director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

## OUTFALL DESCRIPTION

<b>Outfall 001. Active. Final Pretreatment – Internal</b>			
Latitude: 46.291404	Longitude: -96.616848	County: Richland	
Township: 133 North	Range: 47 West	Section: 32	Q: A
Description: This compliance point (outfall) is located on the internal effluent pipe post pretreatment processing and prior to the POTW. Facility batch discharges to the City of Wahpeton POTW.			

## PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Semiannually	July 31, 2022
All Discharge Points	Spill and Slug Discharge Control Plan	1/permit cycle	January 1, 2023
Application Renewal	NDPDES Application Renewal	1/permit cycle	June 30, 2026

## SPECIAL CONDITIONS

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

The permittee must develop a Spill and Slug Discharge Control Plan as detailed in NDAC 33.1-16-01.1 Appendix A, representing best management practices to prevent release of pollutants to the POTW and/or waters of the state and minimizing damages if a sludge discharge or spill occurs.

### I. LIMITATIONS AND MONITORING REQUIREMENTS

#### A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls as specified to the **City of Wahpeton Publicly Owned Treatment Works (POTW)**.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in this permit application process.

#### B. Effluent Limitations and Monitoring

The permittee must limit and monitor all discharges as specified below:

**Table 1 – Effluent Limitations and Monitoring Requirements for Outfall 001A.**

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type	Frequency
Cadmium Total (mg/L)	0.11	0.07	Composite <sup>a</sup>	Semiannually
Chromium Total (mg/L)	2.77	1.71	Composite <sup>a</sup>	Semiannually
Copper Total (mg/L)	3.38	2.07	Composite <sup>a</sup>	Semiannually
Lead Total (mg/L)	0.69	0.43	Composite <sup>a</sup>	Semiannually
Nickel Total (mg/L)	3.98	2.38	Composite <sup>a</sup>	Semiannually
Silver Total (mg/L)	0.43	0.24	Composite <sup>a</sup>	Semiannually
Zinc Total(mg/L)	2.61	1.48	Composite <sup>a</sup>	Semiannually
Cyanide Total (mg/L)	1.20	0.65	4 Grabs <sup>b, d</sup>	Semiannually
Total Toxic Organics (TTO) (mg/L) <sup>c/</sup>	2.13	NA	4 Grabs <sup>b, e</sup>	Semiannually
pH (S.U.) <sup>f/ g/</sup>	Between 5.0 and 12.5 at all times		Instantaneous	Continuous
Drain (Mgal/6 months)	Report Total		Calculated	Semiannually
Flow Rate (gal/day)	Report Max. Daily Value	Report Max. Monthly Average	Calculated	Daily
<p>Notes:</p> <p><sup>a/</sup> Composite sample must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of twelve (12) separate grab samples and proportioned as to flow. Sampling may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.</p> <p><sup>b/</sup> Grab samples must be representative of the quality of the discharge and shall be a single discrete sample collected over a period not exceeding 15 minutes. A minimum of four (4) separate grab samples for each parameter shall be taken and proportioned as to flow.</p> <p><sup>c/</sup> Organic compounds comprising TTO are listed in 40 CFR 433.11(e). The sample results for TTO shall be reported as the summation of all quantifiable values greater than 0.01 mg/L for the listed compounds. The permittee need analyze for only those pollutants which would reasonably be expected to be present.</p>				

<sup>d/</sup> Grab samples for cyanide shall be composited in the laboratory or in the field immediately prior to analysis.

<sup>e/</sup> Grab samples for TTO shall be composited in the laboratory.

<sup>f/</sup> The pH, an instantaneous limitation, shall be between 5.0 and 12.5 S.U. A single pH exceedance shall be noted upon pH falling outside of the assigned limits for a period less than or equal to 10 minutes; all excursions measured within this 10-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 10-minute period thereafter in which one or more excursions have been measured.

<sup>g/</sup> The department has determined that, based on best professional judgement, continuous pH monitoring consisting of recordings no less than once every 10 minutes is representative of the facility's discharge (Appendix C).

## II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.06.07

### A. Representative Sampling (Routine and Non-Routine Discharges)

All samples and measurements taken shall be representative of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited under Part I Effluent Limitations and Monitoring requirements of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with B. Test Procedures. The permittee must report all additional monitoring in accordance with D. Additional Monitoring.

### B. Test Procedures

The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.

### C. Recording of Results

Records of monitoring information shall include:

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

3. the name of the laboratory;
4. the date(s) and time(s) analyses were performed;
5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

**D. Additional Monitoring**

If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with B. Test Procedures, shall be included in the summary on the Discharge Monitoring Report.

**E. Reporting of Monitoring Results**

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.
2. Prior to December 21, 2025, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2025, the permittee must report the following using the electronic reporting system:
  - i. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
  - ii. Municipal separate storm sewer system program reports;
  - iii. Pretreatment program reports;
  - iv. Sewer overflow/bypass event reports; and
  - v. Clean Water Act 316(b) annual reports
3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.
  - i. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.

1. No internet access,

2. No computer access,
3. Annual DMRs (upon approval of the department),
4. Employee turnover (3-month periods only), or
5. Short duration permits (upon approval of the department)

All reports must be postmarked by the last day of the month following the end of each reporting period. All original documents and reports required herein shall be signed and submitted to the department at the following address:

ND Department of Environmental Quality  
Division of Water Quality  
4201 Normandy Street  
Bismarck, ND 58503

**F. Records Retention**

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the department or EPA.

**III. COMPLIANCE RESPONSIBILITIES**

**A. 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.

**B. Proper Operation and Maintenance**

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

**C. Planned Changes**

The department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 122.29(b) shall also be reported.

**D. Duty to Provide Information**

The permittee shall furnish to the department, within a reasonable time, any information which the department 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 department, upon request, copies of

records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

#### **E. Signatory Requirements**

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

All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

All reports required by the permit and other information requested by the department 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:

The authorization is made in writing by a person described above and submitted to the department; and

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.

If an authorization under E. Signatory Requirements is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under 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, 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."

#### **F. Twenty-four Hour Notice of Noncompliance Reporting**

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:
  - a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under I. Bypass of Treatment Facilities;
  - b. Any upset which exceeds any effluent limitation in the permit under J. Upset Conditions; or

<sup>2</sup> Edited in response to Comment 3 (EPA Comment 2), Statement of Basis Appendix E. Added language under Notice of Potential Problems. Added language in section III.F underlined.



- c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.
2. A written submission shall also be provided within five days of the time that the permittee became 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 recurrence of the noncompliance.

Reports shall be submitted to the address in Part II.E. Reporting of Monitoring Results. The department may waive the written report on a case by case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include the four items listed in this subsection.

#### **G. Bypass of Treatment Facilities**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to any of the following provisions in this section.
2. Bypass exceeding limitations-notification requirements.
  - a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
  - b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under G. Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of Bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b. 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 judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- c. The permittee submitted notices as required under the 1. Anticipated Bypass subsection of this section.

The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed above.

#### **H. Upset Conditions**

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph 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.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time being, properly operated;
3. The permittee submitted notice of the upset as required under G. Twenty-four Hour Notice of Noncompliance Reporting and
4. The permittee complied with any remedial measures required under K. Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **I. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

#### **J. Removed Materials**

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

#### **K. Duty to Reapply**

Any request to have this permit renewed should be made six months prior to its

expiration date.

#### **IV. GENERAL PROVISIONS**

##### **A. Inspection and Entry**

The permittee shall allow department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

##### **B. Availability of Reports**

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the department and EPA. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

##### **C. Transfers**

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the department of the possible change.

##### **D. New Limitations or Prohibitions**

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

##### **E. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. 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.

##### **F. 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.

##### **G. State Laws**

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

#### **H. 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 Act.

#### **I. Property Rights**

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

#### **J. 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.

### **V. PROHIBITED DISCHARGES**

#### **A. General Prohibition**

The permittee shall not introduce into the POTW any pollutant which causes pass through or interference.

#### **B. Specific Prohibitions**

The following pollutants may not be introduced into the POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges.
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
4. Any pollutant released in a discharge at a flow rate or pollutant concentration which will cause interference.
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (104 degree Fahrenheit), unless the department, upon request of the POTW, approves alternate temperature limits.
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or passthrough.
7. Pollutants which 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.

8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

**C. Dilution Prohibition**

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

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