

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

Public Notice Date: 3/27/2023

Public Notice Number: ND-2023-007

Purpose of Public Notice

The Department intends to issue 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: 1/1/2023

Application Number: NDPG

Applicant Name: Pretreatment General Permit for Metal Finishing Industrial Users

Mailing Address: ND Dept of Env Quality, Div of Water Quality, 4201 Normandy Street, Bismarck ND 58503-1324

Telephone Number: 701.328.5237

Proposed Permit Expiration Date: 6/30/2028

Description

The department intends to issue NDPDES General Permit, NDPG00000, to regulate discharges from pretreatment metal finishing facilities under 40 CFR 433. Coverage under this general permit is limited to facilities that meet the criteria specified in the permit. Applicants must apply individually to the department to obtain coverage under this general permit. This general permit applies to discharges to a Publicly Owned Treatment Works (POTW) in a city without an approved pretreatment program.

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. 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 May 01, 2023 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.

The NDDEQ will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. To request accommodations, contact Jennifer Skjod, Acting Non-discrimination Coordinator at 701-328-5226 or jskjod@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

**FACT SHEET FOR NDPDES GENERAL PERMIT
NDPG00000**

METAL FINISHING INDUSTRIAL USERS

DATE OF THIS FACT SHEET – December 2022

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 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 Federal Water Pollution Control Act, as amended [33 U.S.C. 1251, et seq.], and is 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 the North Dakota Administrative Code (NDAC) 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.

The facilities covered under this permit fall under the Industrial Pretreatment Program, which is under the NDPDES program. The department was delegated pretreatment authority from the EPA in 2005. The following rules or regulations apply to NDPDES permits:

- 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 of 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 fact sheet 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 fact sheet 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 D – Response to Comments**.

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TABLE OF CONTENTS

BACKGROUND INFORMATION	4
PERMIT COVERAGE	4
DESCRIPTION OF DISCHARGE	5
DISCHARGES NOT COVERED	5
PERMIT STATUS	6
PROPOSED PERMIT LIMITS	6
Pretreatment Standards for Existing Sources (PSES).....	6
Pretreatment Standards for New Sources (PSNS)	6
Effluent Limitations	7
SELF-MONITORING REQUIREMENTS	9
Monitoring Requirements	9
OTHER PERMIT CONDITIONS	13
General Prohibition	13
Specific Prohibition(s)	13
Dilution Prohibition	13
Reporting Requirements.....	13
Operations and Maintenance.....	14
Spill and Slug Discharge Control Plan.....	14
Public Notification of Significant Noncompliance	15
Test Procedures	15
PERMIT ISSUANCE PROCEDURES	15
Permit Modifications	15
Proposed Permit Issuance.....	16
APPENDIX A – PUBLIC INVOLVEMENT INFORMATION	17
APPENDIX B – DEFINITIONS Pretreatment Permit – BP 2023.01.20	19
APPENDIX C – DATA AND TECHNICAL CALCULATIONS	25
APPENDIX D – RESPONSE TO COMMENTS	26

BACKGROUND INFORMATION

The operation of metal finishing industrial facilities often results in a release of process wastewater to a Publicly Owned Treatment Works (POTW). These discharges contain pollutants, which, if not properly treated and managed, can result in impacts to water quality, POTW equipment, collection systems, and loadings.

According to Part 40 of the Code of Federal Regulations (CFR), section 122.28, general permits issued for a class of dischargers in place of individual permits for specific facilities benefits both the department and the permit holder by reducing administrative tasks and making the requirements for similar facilities consistent. As provided in the NDPDES Pretreatment Rules (NDAC 33.1-16-01.1), the control authority may issue general permits for a class of dischargers that meet the following criteria: involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations, require the same or similar monitoring, and in the opinion of the control authority, are more appropriately controlled under a general control mechanism than under individual control mechanisms. The industrial user discharges described in this permit meet these criteria and can be appropriately regulated under a general permit.

PERMIT COVERAGE

This permit covers discharges from metal finishing industrial facilities that discharge treated process wastewater to a POTW. Facilities are only eligible for coverage under this general permit if they were previously covered under an individual permit, or permitted-by-rule, for a duration of at least five (5) years, or one permit cycle. The permit will cover facilities in North Dakota not located in the jurisdiction of one of the approved pretreatment programs. Metal finishing facilities located in the jurisdiction of an approved pretreatment program will be permitted directly by the approved program.

The proposed general permit contains discharge requirements that are based on technologic considerations, and other conditions applicable to the types of discharges generated by metal finishing industrial activities. The characteristics of water discharged from metal finishing industrial facilities are similar because they discharge the same types of waste, involve similar operations, and are appropriately controlled by similar effluent limits. Issuing a general permit for these discharges allows the department to streamline the permitting process and ensure consistency. Therefore, a general permit is appropriate for these types of discharges.

To obtain coverage under this permit, the owner/operator or authorized agent for the facility must submit a Notice of Intent (NOI) to obtain coverage under NDPDES General Permit Industrial Pretreatment – Metal Finishing Users prior to the start of any discharge. The NOI will include the date in which the facility began metal finishing operations, as defined under 40 CFR 433, for determination of applicable pretreatment standards. A Spill and Slug Discharge Control Plan representative of current conditions at the facility must be included with the NOI. In the case of an application for renewal of an individual permit or coverage under a general permit, a reapplication made under the provisions of the existing permit will be acceptable. The reapplication must include a Spill and Slug Discharge Control Plan representative of current conditions at the facility.

The department will then have sixty (60) days to deny coverage, request information, or authorize coverage under the general permit. Coverage under the general permit will be valid only when the applicant is issued a written Notice of Coverage (NOC) from the department. Facilities qualifying for coverage under this general permit, which are covered by an individual permit, shall remain covered by the individual permit until it's expiration. As provided in NDAC 33.1-16-01, the operator of a facility covered under this general permit may request to be excluded from coverage under the general permit by submitting an application for an individual permit. In addition, any action by the department to require a facility to obtain an individual discharge permit will follow the procedures defined in NDAC 33.1-16-01.

DESCRIPTION OF DISCHARGE

Discharges regulated by 40 CFR part 433 shall be covered under this permit. These discharges are from industrial processes with at least one primary wastewater generating process that discharge to a POTW (see Table 1). If a primary wastewater generating process exists at a facility, wastewaters discharged from ancillary processes to a POTW will also be covered under the proposed general permit (see Table 2). New and existing sources shall be covered by this permit.

Table 1 - Primary Wastewater Generating Processes (40 CFR 433.10)

Electroplating	Coating (Chromating, Phosphating, and Coloring)
Electroless Plating	Chemical Etching and Milling
Anodizing	Printed Circuit Board Manufacture

Table 2 - Ancillary Wastewater Generating Processes (40 CFR 433.10)

Cleaning	Flame Spraying	Vapor Plating
Machining	Sand Blasting	Thermal Infusion
Grinding	Other Abrasive Jet Machining	Salt Bath Descaling
Polishing	Electric Discharge Machining	Solvent Degreasing
Tumbling	Electrochemical Machining	Paint Stripping
Burnishing	Electron Beam Machining	Painting
Impact Deformation	Laser Beam Machining	Electrostatic Painting
Pressure Deformation	Plasma Arc Machining	Electropainting
Shearing	Ultrasonic Machining	Vacuum Metalizing
Heat Treating	Sintering	Assembly
Thermal Cutting	Laminating	Calibration
Welding	Hot Dip Coating	Testing
Brazing	Sputtering	Mechanical Plating
Soldering		

DISCHARGES NOT COVERED

This permit does not authorize the following discharges:

- Discharge to waters of the state,

- Discharge to a POTW that is subject to other categorical standards,
- Discharge to a POTW with an approved pretreatment program,
- Discharge or spill of chemicals not authorized for release under this permit, and
- Discharge or spill of chemicals used in the treatment process that exceed the established permit limits.

PERMIT STATUS

This is the first issuance of this proposed general permit.

PROPOSED PERMIT LIMITS

Pretreatment Standards for Existing Sources (PSES)

Any metal finishing facility having discharged prior to July 15, 1983, excluding job shops and independent printed circuit board manufactures, and that has not made significant treatment upgrades, under this permit, would be considered an existing source. The concentration of the process wastewater pollutants from the facility's treatment system shall not exceed the values outlined in Table 3. No user introducing wastewater pollutants into a POTW under 40 CFR 433.15 shall augment the use of process wastewater as a partial or total substitute for adequate treatment to achieve compliance with the limitations.

Table 3 - Applicable Pretreatment Standards for Existing Sources (40 CFR 433.15)

Pollutant	Daily Maximum	Maximum Monthly Average
Cadmium, Total (mg/l)	0.69	0.26
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 (mg/l)	2.13	--

Pretreatment Standards for New Sources (PSNS)

Any metal finishing facility having started discharging on or after July 15, 1983, would be considered a new source under this permit. The concentration of the process wastewater

pollutants from the facility's treatment system shall not exceed the values outlined in Table 4. No user introducing wastewater pollutants into a POTW under 40 CFR 433.17 shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with the limitations.

Table 4 - Applicable Pretreatment Standards for New Sources (40 CFR 433.17)

Pollutant	Daily Maximum	Maximum Monthly Average
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 (mg/l)	2.13	--

Effluent Limitations

The proposed effluent limitations shall take effect once the permit becomes active or a notice of coverage letter is issued. The proposed effluent limitations are in the following tables:

Table 5 - Effluent Limitations for Existing Sources

Parameter	Daily Maximum	Maximum Monthly Average
Cadmium, Total (mg/l)	0.69	0.26
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) ^a	1.20	0.65
Total Toxic Organics (TTO) (mg/l) _{b, c}	2.13	*
pH (s.u.)	Shall remain between 5.0 and 12.5	
Process Flow (gal/day)	Report	Report
Drain (mgal)	Report Total	

Notes:	
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.
a.	<p>Upon agreement between the POTW, the department, and facility, facilities with cyanide treatment, the following amenable cyanide limits may apply in place of the total cyanide limits above in accordance with 40 CFR 433.15(b):</p> <p>Daily Maximum: 0.86 mg/l Maximum Monthly Average: 0.32 mg/l</p>
b.	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.
c.	<p>If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring:</p> <p>TTO Certification Statement:</p> <p>“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTO’s), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality.”</p> <p>Responsible Official: _____ Date: _____</p>

Table 6 - Effluent Limitations for New Sources

Parameter	Daily Maximum	Maximum Monthly Average
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) ^a	1.20	0.65

Total Toxic Organics (TTO) (mg/l) b, c	2.13	*
pH (s.u.)	Shall remain between 5.0 and 12.5	
Process Flow (gal/day)	Report	Report
Drain (mgal)	Report Total	
Notes:		
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.	
a.	Upon agreement between the POTW, the department, and facility, facilities with cyanide treatment, the following amenable cyanide limits may apply in place of the total cyanide limits above in accordance with 40 CFR 433.17(b): Daily Maximum: 0.86 mg/l Maximum Monthly Average: 0.32 mg/l	
b.	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.	
c.	If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring: TTO Certification Statement: "Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTO's), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality." Responsible Official: _____ Date: _____	

SELF-MONITORING REQUIREMENTS

Monitoring Requirements

The department requires monitoring, recording, and reporting (NDAC 33.1-16-01.1-11 & 33.1-16-01.1-12) and (40 CFR 403.12) to verify that the treatment process is functioning correctly and that the discharge complies with permit limits.

All effluent samples shall be taken at a point before the process generated wastewater effluent either joins or is diluted by any other dilution stream, water or substance and prior to entering the POTW.

This permit authorizes the discharge of only those pollutants resulting from the facility processes identified in Table 1 and Table 2. 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 frequencies are listed below:

Table 7 - Self-Monitoring Requirements for Facilities that Batch Discharge

Parameter	Sample Type ^a	Frequency
Cadmium, Total (mg/l)	Grab	Semiannually
Chromium, Total (mg/l)	Grab	Semiannually
Copper, Total (mg/l)	Grab	Semiannually
Lead, Total (mg/l)	Grab	Semiannually
Nickel, Total (mg/l)	Grab	Semiannually
Silver, Total (mg/l)	Grab	Semiannually
Zinc, Total (mg/l)	Grab	Semiannually
Cyanide, Total (mg/l)	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{b, c}	Grab	Semiannually
pH (s.u.) ^d	Instantaneous	Per Discharge
Process Flow (gal/day)	Calculated	Daily
Drain (mgal)	Calculated	Semiannually
Notes:		
a.	Grab samples must be representative of the quality of discharge and shall be a single, discrete sample collected over a period not exceeding 15 minutes.	
b.	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.	
c.	If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring: TTO Certification Statement:	

Parameter	Sample Type ^a	Frequency
	“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTO’s), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality.” Responsible Official: _____ Date: _____	
d.	The pH, an instantaneous limitation, shall be between 5.0 s.u. and 12.5 s.u. A single pH exceedance shall be noted upon falling outside of the assigned limits during a singular batch discharge event.	

Table 8 - Self-Monitoring Requirements for Facilities that Discharge Continuously

Parameter	Sample Type ^{a, b}	Frequency
Cadmium, Total (mg/l)	Composite	Semiannually
Chromium, Total (mg/l)	Composite	Semiannually
Copper, Total (mg/l)	Composite	Semiannually
Lead, Total (mg/l)	Composite	Semiannually
Nickel, Total (mg/l)	Composite	Semiannually
Silver, Total (mg/l)	Composite	Semiannually
Zinc, Total (mg/l)	Composite	Semiannually
Cyanide, Total (mg/l)	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{c, d}	Grab	Semiannually
pH (s.u.) ^{e, f}	Instantaneous	Continuous
Process Flow (gal/day)	Calculated ^g	Daily
Drain (mgal)	Calculated	Semiannually
Notes:		
a.	Composite samples 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 to flow. Sample may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.	

Parameter	Sample Type ^{a, b}	Frequency
b.	Grab samples must be representative of the quality of discharge and shall be a single, discrete sample collected over a period not exceeding 15 minutes.	
c.	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.	
d.	<p>If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring:</p> <p>TTO Certification Statement:</p> <p>“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTO’s), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality.”</p> <p>Responsible Official: _____ Date: _____</p>	
e.	Facilities with in-line continuous pH monitors shall follow the pH requirements for continuous discharges even if they batch discharge. The department has determined that, based on best professional judgement, continuous pH monitoring consisting of recordings no less than once every ten (10) minutes is representative of the waste stream.	
f.	The pH, and instantaneous limitation, shall be between 5.0 s.u. 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-minute period thereafter in which one or more excursions have been measured.	
g.	The facility shall be allowed to calculate the process flow rate (gal/day). However, if the facility has a process flow meter installed measurements from that meter should be reported in gallons per day (gal/day) on the self-monitoring reports. The department reserves the right to determine on a case-by-case basis the appropriate flow data type, if necessary, based on sample history and to protect the POTW.	

OTHER PERMIT CONDITIONS

General Prohibition

The permittee shall not introduce into a POTW any pollutant(s) which may cause pass through or interference, as defined in **Appendix B**.

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 cap flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using test methods specified in 40 CFR 261.21.
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case dischargers 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 in such quantities that the temperature at the POTW exceeds forty (40) degrees Celsius (104 degrees 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 pass through.
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 process 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 exceedances.

For batch dischargers, a single pH exceedance shall be noted upon falling outside of the assigned limits during a singular batch discharge event.

For continuous pH monitoring, individual pH exceedances shall be determined within 10-minute time intervals. 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 maintenance ensures constructed facilities are used to their optimum potential in terms of pollutant capture and treatment. An Operation and Maintenance (O&M) Manual is required for facilities designated for compliance assistance by the department. 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. Permittees covered under this general permit 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/or 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 POTW of slug discharges, including any discharge that would violate a prohibition under subsection 2 of NDAC 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 for emergency response.

The results of any slug discharge or spill shall be available to the department upon request. Updates to the spill and slug discharge plan should be made within one year of any process changes that would require changes be made to this information.

The spill and slug discharge plan can be combined with the operation and maintenance manual provided all requirements are listed.

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 33.1-16-01.1-Appendix A).

Test Procedures

The collection and transportation of all samples shall conform to EPA preservation techniques and holding times. 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 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 ten (10) percent of the actual amount.

PERMIT ISSUANCE PROCEDURES

Permit Modifications

Coverage under this permit may be modified, revoked and reissued, or terminated for cause. This includes 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.

Proposed Permit Issuance

This proposed permit meets all statutory requirements for the department to authorize a wastewater discharge, including limits and conditions. The department proposes to issue this permit for a term of five (5) years.

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APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to issue a NDPDES general permit for the facilities that qualify for coverage under the NDPG00000. The permit includes wastewater discharge limits and other compliance conditions. This fact sheet describes the conditions the facilities must meet for coverage under NDPG00000 and the department's reasons for requiring permit conditions.

The department will place a Public Notice of Draft on **March 27, 2023**, in the state regional papers to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and fact sheet. The notice will also be mailed to the department's public notice mailing list. Facilities eligible for coverage under the proposed permit will be provided a copy of the public notice and draft permit at the beginning of the public comment period.

The Notice –

- Indicates where copies of the draft Permit and Fact Sheet are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges individuals 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, 701.328.5210, or by writing to the address listed below.

North Dakota Department of Environmental Quality
Division of Water Quality
4201 Normandy Street
Bismarck, ND 58503-1324

The primary author of this permit and fact sheet is Sarah Waldron Feld.

FACT SHEET FOR NDPDES GENERAL PERMIT NDPG00000
METAL FINISHING INDUSTRIAL USERS
EXPIRATION DATE: June 30, 2028
Page 18 of 26

North Dakota Department of Environmental Quality Public Notice
Issue of an NDPDES Permit

Public Notice Date: 3/27/2023 Public Notice Number: ND-2023-007

Purpose of Public Notice

The Department intends to issue 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: 1/1/2023 Application Number: NDPG

Applicant Name: Pretreatment General Permit for Metal Finishing Industrial Users

Mailing Address: ND Dept of Env Quality, Div of Water Quality, 4201 Normandy Street, Bismarck ND 58503-1324

Telephone Number: 701.328.5237

Proposed Permit Expiration Date: 6/30/2028

Description

The department intends to issue NDPDES General Permit, NDPG00000, to regulate discharges from pretreatment metal finishing facilities under 40 CFR 433. Coverage under this general permit is limited to facilities that meet the criteria specified in the permit. Applicants must apply individually to the department to obtain coverage under this general permit. This general permit applies to discharges to a Publicly Owned Treatment Works (POTW) in a city without an approved pretreatment program.

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. 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 May 01, 2023 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.

The NDDEQ will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. To request accommodations, contact Jennifer Skjod, Acting Non-discrimination Coordinator at 701-328-5226 or jskjod@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

APPENDIX B – DEFINITIONS Pretreatment Permit – BP 2023.01.20

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. "**Chronic Violations**" occur when sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
8. "**Composite Sample**" means samples that are representative of the discharge and proportioned according to flow over the compositing period. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e. sample taken every "X" gallons of flow); and
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
9. "**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.
10. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
 11. "**Director**" means the department.
 12. "**DMR**" means discharge monitoring report.
 13. "**EPA**" means the United States Environmental Protection Agency.
 14. "**Existing Source**" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, which is not considered a New Source.
 15. "**Grab Sample**", for monitoring requirements, is a single, discrete sample collected at a representative point in the discharge stream over a period not exceeding 15 minutes.
 16. "**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.
 17. "**Industrial User**" or "**User**" means a source of indirect discharge.
 18. "**Instantaneous Measurement**", for monitoring requirements, is a single reading, observation, or measurement either taken at the facility or within 15 minutes of the sample.
 19. "**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. **"Pass Through"** 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. "**Process Wastewater**" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
21. "**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.
22. "**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.
23. "**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.
24. "**Sewage Sludge**" is any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes but is not limited to solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.
25. "**Significant Industrial User**" or "**SIU**" 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.

26. "**Slug Discharge**" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate the POTW's ordinances, local limits, or permit conditions.

27. "**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.

28. "**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.

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APPENDIX C – DATA AND TECHNICAL CALCULATIONS

The development of this permit did not require calculations by the department. The department reviewed applicable pretreatment standards to determine appropriate requirements to be placed in the permit.

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APPENDIX D – RESPONSE TO COMMENTS

Any comments received during the public comment period will be addressed here.

DRAFT

Permit No: NDPG00000
Effective Date: July 1, 2023
Expiration Date: June 30, 2028

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01.1 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,

industrial pretreatment metal finishing users satisfying the requirements of this permit

are authorized to discharge from metal finishing facilities

to Publicly Owned Treatment Works

provided all the conditions of this permit are met.

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

June 30, 2028

Signed this _____ day of _____, _____.

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

BP 2021.06.07

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TABLE OF CONTENTS

DEFINITIONS Pretreatment Permit – BP 2023.01.20	5
OUTFALL DESCRIPTION	10
PERMIT SUBMITTALS SUMMARY	10
SPECIAL CONDITIONS	10
A. Alternate Permits	10
B. Facility Permit Coverage	10
C. Notice of Termination (NOT)	11
I. PERMIT COVERAGE	12
A. Applicability of the General Permit	12
B. Discharges Covered	12
C. Discharges Not Covered	12
II. LIMITATIONS AND MONITORING REQUIREMENTS	13
A. Discharge Authorization	13
B. Effluent Limitations and Monitoring	13
III. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.06.07 ...	17
A. Representative Sampling (Routine and Non-Routine Discharges)	17
B. Test Procedures	18
C. Recording of Results	18
D. Additional Monitoring	18
E. Reporting of Monitoring Results	18
F. Records Retention	19
IV. COMPLIANCE RESPONSIBILITIES	19
A. Duty to Comply	19
B. Proper Operation and Maintenance	20
C. Planned Changes	20
D. Duty to Provide Information	20
E. Signatory Requirements	20
F. Notice of Potential Problems	21
G. Twenty-four Hour Notice of Noncompliance Reporting	21
H. Hazardous Waste	22
I. Bypass of Treatment Facilities	22
J. Upset Conditions	23
K. Duty to Mitigate	23
L. Removed Materials	23
M. Duty to Reapply	23

V. GENERAL PROVISIONS	23
A. Inspection and Entry	23
B. Availability of Reports	24
C. Transfers	24
D. New Limitations or Prohibitions	24
E. Permit Actions	24
F. Need to Halt or Reduce Activity Not a Defense	24
G. State Laws	24
H. Oil and Hazardous Substance Liability	24
I. Property Rights	24
J. Severability	24
K. Penalties	25
VI. PROHIBITED DISCHARGES	25
A. General Prohibition	25
B. Specific Prohibitions	25
C. Dilution Prohibition	25

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 - c. Constant sample volume, time interval between samples proportional to flow (i.e. sample taken every "X" gallons of flow); and
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
9. "**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.
10. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
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 18. "**Instantaneous Measurement**", for monitoring requirements, is a single reading, observation, or measurement either taken at the facility or within 15 minutes of the sample.
 19. "**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. "**Pass Through**" 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. "**Process Wastewater**" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
21. "**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.
22. "**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.
23. "**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.
24. "**Sewage Sludge**" is any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes but is not limited to solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.
25. "**Significant Industrial User**" or "**SIU**" 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.
26. "**Slug Discharge**" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate the POTW's ordinances, local limits, or permit conditions.
27. "**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.
28. "**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

Metal Finishing Industrial Users – Active. Final Outfall. Metal Finishing Industrial Users Discharge. The Industrial Users discharge process wastewater from metal finishing activities to publicly owned treatment works (POTWs).

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
Identified Discharge Point(s) on NOI	Discharge Monitoring Report ^a	Semiannually	January 31, 2024
Identified Discharge Point(s) on NOI	Spill and Slug Discharge Control Plan ^b	1/permit cycle	January 1, 2028
Identified Discharge Point(s) on NOI	Toxic Organic Management Plan (TOMP) ^c	1/permit cycle	January 1, 2028
Application Renewal	NDPDES Notice of Intent (NOI)	1/permit cycle	January 1, 2028
a.	The permittee shall submit a Total Toxic Organics (TTO) certification statement with each Discharge Monitoring Report where TTO monitoring is not required.		
b.	The permittee is required to develop and submit a spill and slug discharge control plan. Once submitted, if no updates to the submitted plan are needed, the permittee may certify that no updates are needed to current spill and slug discharge control plan.		
c.	If the permittee has an approved Toxic Organic Management Plan (TOMP), the permittee shall certify that the approved TOMP is up to date.		

SPECIAL CONDITIONS

A. Alternate Permits

1. Prior to obtaining coverage under this permit, facilities must have previously been permitted under an individual permit, or permitted-by-rule, for a duration of at least five (5) years.
2. When an individual North Dakota Pollutant Discharge Elimination System (NDPDES) permit is issued to a facility otherwise subject to this permit, coverage under General Permit NDPG00000 is automatically terminated upon the effective date of the individual permit.

B. Facility Permit Coverage

1. To obtain coverage under this permit, the owner, operator, or authorized agent of the facility must submit a Notice of Intent (NOI) to Obtain Coverage Under NDPDES General Permit for Industrial Pretreatment Discharges Associated with Metal Finishing.

The NOI shall contain, at a minimum, the following information:

- a. Legal name, mailing address and phone number of the organization responsible for the facility;
- b. Name of the facility;
- c. Location of facility;
- d. Contact name and phone number;
- e. Date facility began metal finishing operations for consideration of PSES or PSNS;
- f. Standard Industrial Classification (SIC);
- g. North American Industry Classification System (NAICS);
- h. Receiving POTW;
- i. Description of operations at facility;
- j. Indication of primary and ancillary metal finishing operations present at facility;
- k. Description of wastewater discharged;
- l. Average flow;
- m. Schematic Flow Diagram;
- n. Facility Site Map;
- o. Description of discharge point(s);
- p. Description of pretreatment operations;
- q. Identification of water source;
- r. Facility's average or estimated water usage;
- s. Signature of the NOI signed in accordance with Part IV(E) Signatory Requirements.

Completed NOI's shall be submitted to:

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

2. Within sixty (60) days after receiving a NOI, the department will authorize coverage under this discharge permit, deny coverage, or request additional information. Coverage under this General Permit will begin when the department issues a written notice of coverage.
3. A request to be issued an individual permit may be made by the owner, operator, or authorized agent of any facility that is eligible for coverage under this General Permit. Such request shall provide the reasons for issuing an individual permit to the facility. If the reasons are adequate to support the request, the department may issue an individual permit.
4. Facilities covered by an individual permit, which are also eligible for coverage under this permit, shall remain covered by the individual permit until it expires. A reapplication submitted under the provisions of the existing individual permit will be processed as an application for authorization under this permit.

C. Notice of Termination (NOT)

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) or other written request identifying the facility, reason why the permit is no longer needed, and signed in accordance with Part IV(E) Signatory

Requirements. Compliance with the conditions of this permit is required until a NOT is submitted and processed by the department.

I. PERMIT COVERAGE

A. Applicability of the General Permit

The department (control authority) may issue a general permit for a class of discharges that meet the following criteria: involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations, require the same or similar monitoring, and in the opinion of the control authority, are more appropriately controlled under a general control mechanism than individual control mechanism (NDAC 33.1-16-01.1).

B. Discharges Covered

Discharges regulated by 40 CFR part 433 shall be covered under this permit. These discharges are from industrial processes with at least one primary wastewater generating process that discharge to a POTW (Table 1). If a primary wastewater generating process exists at a facility, wastewaters discharged from ancillary processes to a POTW will also be covered under the general permit (Table 2). New and existing sources shall be covered by this permit.

Table 1: Primary Wastewater Generating Processes (40 CFR 433.10)

Electroplating	Coating (Chromating, Phosphating, and Coloring)
Electroless Plating	Chemical Etching and Milling
Anodizing	Printed Circuit Board Manufacture

Table 2: Ancillary Wastewater Generating Processes (40 CFR 433.10)

Cleaning	Flame Spraying	Vapor Plating
Machining	Sand Blasting	Thermal Infusion
Grinding	Other Abrasive Jet Machining	Salt Bath Descaling
Polishing	Electric Discharge Machining	Solvent Degreasing
Tumbling	Electrochemical Machining	Paint Stripping
Burnishing	Electron Beam Machining	Painting
Impact Deformation	Laser Beam Machining	Electrostatic Painting
Pressure Deformation	Plasma Arc Machining	Electropainting
Shearing	Ultrasonic Machining	Vacuum Metalizing
Heat Treating	Sintering	Assembly
Thermal Cutting	Laminating	Calibration
Welding	Hot Dip Coating	Testing
Brazing	Sputtering	Mechanical Plating
Soldering		

C. Discharges Not Covered

1. This permit does not authorize the following discharges:

- a. Discharge to waters of the state,
- b. Discharge from facility subject to categorical standards, other than 40 CFR 433, to a POTW,
- c. Discharge to a POTW with an approved pretreatment program,
- d. Discharge or spill of chemicals not authorized for release under this permit, and
- e. Discharge or spill of chemicals used in the treatment process that exceed the established permit limits.

II. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

During the effective period of this permit; the permittee is authorized to discharge pollutants from its metal finishing operations from the outfalls identified in the NOI to the receiving POTW, provided the discharge meets the limitations and monitoring requirements outlined in this permit.

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

B. Effluent Limitations and Monitoring

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

Table 3: Effluent Limitations and Monitoring Requirements for Existing Sources

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
Facilities that Batch Discharge				
Cadmium, Total (mg/l)	0.69	0.26	Grab	Semiannually
Chromium, Total (mg/l)	2.77	1.71	Grab	Semiannually
Copper, Total (mg/l)	3.38	2.07	Grab	Semiannually
Lead, Total (mg/l)	0.69	0.43	Grab	Semiannually
Nickel, Total (mg/l)	3.98	2.38	Grab	Semiannually
Silver, Total (mg/l)	0.43	0.24	Grab	Semiannually
Zinc, Total (mg/l)	2.61	1.48	Grab	Semiannually
Cyanide, Total (mg/l) ^c	1.20	0.65	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{d, e}	2.13	*	Grab	Semiannually
pH (s.u.) ^f	Shall remain between 5.0 and 12.5		Instantaneous	Per Discharge

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
Facilities that Continuously Discharge				
Cadmium, Total (mg/l)	0.69	0.26	Composite	Semiannually
Chromium, Total (mg/l)	2.77	1.71	Composite	Semiannually
Copper, Total (mg/l)	3.38	2.07	Composite	Semiannually
Lead, Total (mg/l)	0.69	0.43	Composite	Semiannually
Nickel, Total (mg/l)	3.98	2.38	Composite	Semiannually
Silver, Total (mg/l)	0.43	0.24	Composite	Semiannually
Zinc, Total (mg/l)	2.61	1.48	Composite	Semiannually
Cyanide, Total (mg/l) ^c	1.20	0.65	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{d, e}	2.13	*	Grab	Semiannually
pH (s.u.) ^{h, i}	Shall remain between 5.0 and 12.5		Instantaneous	Continuously

Table 4: Effluent Limitations and Monitoring Requirements for New Sources

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
Facilities that Batch Discharge				
Cadmium, Total (mg/l)	0.11	0.07	Grab	Semiannually
Chromium, Total (mg/l)	2.77	1.71	Grab	Semiannually
Copper, Total (mg/l)	3.38	2.07	Grab	Semiannually
Lead, Total (mg/l)	0.69	0.43	Grab	Semiannually
Nickel, Total (mg/l)	3.98	2.38	Grab	Semiannually
Silver, Total (mg/l)	0.43	0.24	Grab	Semiannually
Zinc, Total (mg/l)	2.61	1.48	Grab	Semiannually
Cyanide, Total (mg/l) ^g	1.20	0.65	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{d, e}	2.13	*	Grab	Semiannually

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
pH (s.u.) ^f	Shall remain between 5.0 and 12.5		Instantaneous	Per Discharge
Facilities that Continuously Discharge				
Cadmium, Total (mg/l)	0.11	0.07	Composite	Semiannually
Chromium, Total (mg/l)	2.77	1.71	Composite	Semiannually
Copper, Total (mg/l)	3.38	2.07	Composite	Semiannually
Lead, Total (mg/l)	0.69	0.43	Composite	Semiannually
Nickel, Total (mg/l)	3.98	2.38	Composite	Semiannually
Silver, Total (mg/l)	0.43	0.24	Composite	Semiannually
Zinc, Total (mg/l)	2.61	1.48	Composite	Semiannually
Cyanide, Total (mg/l) ^g	1.20	0.65	Grab	Semiannually
Total Toxic Organics (TTO) (mg/l) ^{d, e}	2.13	*	Grab	Semiannually
pH (s.u.) ^{h, i}	Shall remain between 5.0 and 12.5		Instantaneous	Continuously

Table 5: Discharge Volume

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type	Frequency
Process Flow (gal/day)	Report	Report	Calculated ^j	Daily
Drain (mgal)	Report Total		Calculated	Semiannually

Table 6: Stipulations for Effluent Limitations and Monitoring Requirements

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
Notes:				
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.			

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
a.	Grab samples must be representative of the quality of discharge and shall be a single, discrete sample collected over a period not exceeding 15 minutes.			
b.	Composite samples 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 to flow. Sample may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.			
c.	<p>Upon agreement between the POTW, the department, and facility, facilities with cyanide treatment, the following amenable cyanide limits may apply in place of the total cyanide limits above in accordance with 40 CFR 433.15(b):</p> <p>Daily Maximum: 0.86 mg/l Maximum Monthly Average: 0.32 mg/l</p>			
d.	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.			
e.	<p>If the permittee has an approved Toxic Organic Management Plan through the department, they may submit the following TTO certification once per six (6) months in lieu of performing TTO monitoring:</p> <p>TTO Certification Statement:</p> <p>“Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation for Total Toxic Organic (TTO’s), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the North Dakota Department of Environmental Quality.”</p> <p>Responsible Official: _____ Date: _____</p>			
f.	The pH, an instantaneous limitation, shall be between 5.0 s.u. and 12.5 s.u. A single pH exceedance shall be noted upon falling outside of the assigned limits during a singular batch discharge event.			
g.	<p>Upon agreement between the POTW, the department, and facility, facilities with cyanide treatment, the following amenable cyanide limits may apply in place of the total cyanide limits above in accordance with 40 CFR 433.17(b):</p> <p>Daily Maximum: 0.86 mg/l Maximum Monthly Average: 0.32 mg/l</p>			

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum	Maximum Monthly Average	Sample Type ^{a, b}	Frequency
h.	Facilities with in-line continuous pH monitors shall follow the pH requirements for continuous discharges even if they batch discharge. The department has determined that continuous pH monitoring consisting of recordings no less than once every ten (10) minutes is representative of the waste stream.			
i.	The pH, and instantaneous limitation, shall be between 5.0 s.u. 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-minute period thereafter in which one or more excursions have been measured.			
j.	The facility shall be allowed to calculate the process flow rate (gal/day). However, if the facility has a process flow meter installed measurements from that meter should be reported in gallons per day (gal/day) on the self-monitoring reports. The department reserves the right to determine on a case-by-case basis the appropriate flow data type, if necessary, based on sample history and to protect the POTW.			

III. 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.B. 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.

IV. 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 and POTW 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 increases, or process modifications which might result in changes in volume and/or characteristic of discharged pollutants, including hazardous wastes which have been made aware to the department as required by 40 CFR 403.12(p) 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 403.3(m)(1) 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. Notice of Potential Problems

The permittee is required to immediately notify the receiving POTW of all discharges that may cause problems to the POTW. This includes slug loadings, as defined by 40 CFR 403.5(b).

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall immediately 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 H. Upset Conditions; or
 - 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.

If sampling performed by an industrial user indicates a violation, the user shall repeat the sampling and analysis and submit the results of the repeat analysis to the department within 30 days after becoming aware of a violation as instructed in 40 CFR 403.12(g)(2).

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 all items listed in this subsection.

H. Hazardous Waste

The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, additional parameters as defined in 40 CFR 403.12(p) are to be included in the written notification.

I. 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.

J. 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.

K. 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.

L. 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.

M. Duty to Reapply

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

V. 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 must provide notification to the POTW and a copy of the existing permit shall be provided to the new owner or operator.

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.

K. Penalties

Nothing in this permit may be construed to relieve the permittee from civil and/or criminal penalties for noncompliance.

VI. 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 (40) 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.