

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

Public Notice Date: 8/11/2021

Public Notice Number: ND-2021-027

Purpose of Public Notice

The Department intends to modify 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: 5/3/2021

Application Number: NDP026999

Applicant Name: Marathon Dickinson Refinery

Mailing Address: 3815 116th Ave. SW, Dickinson, ND 58601

Telephone Number: 701.456.6939

Proposed Permit Expiration Date: 10/31/2025

Facility Description

Marathon Dickinson Refinery is a renewable diesel refining facility located at 3815 116th Ave SW in Dickinson, ND 58601 in Stark County. Treated process wastewater from the facility discharges to the city of Dickinson's publicly owned treatment works. The refinery is a regulated categorical industrial user that requires a permit issued under the North Dakota Pollutant Discharge Elimination System program. This discharger is a new source subject to 40 CFR Part 414.66 (Commodity Organic Chemicals) and must comply with NDAC 33.1-16-01.1. The proposed permit modification addresses changes to pH limits and standard conditions for industrial users.

Tentative Determinations

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

Information Requests and Public Comments

Copies of the application, draft permit, and related documents are available for review. For further information on making public comments/public comment tips please visit: <https://deq.nd.gov/PublicCommentTips.aspx>. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by September 10, 2021 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026999
September 2020
Modification August 2021

MARATHON DICKINSON REFINERY
Industrial Pretreatment (SignificantCategorical Industrial User)

INTRODUCTION

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

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

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

~~These rules require any treatment facility operator to obtain an NDPDES permit before discharging wastewater to waters of the state. These rules include commercial or industrial wastewater discharges to sewerage systems operated by municipalities or public entities that discharge into waters of the state. Regulations adopted by the state also define the basis for limits on each discharge and for other requirements imposed by the permit.~~

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

According to NDAC section 33.1-16-01-08, the department must prepare a draft permit and accompanying statement of basis and make it available for public review. The department must also publish an announcement (public notice) during a period of thirty days, informing the public where a draft permit may be obtained and where comments regarding the draft permit may be

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sent (NDAC section 33.1-16-01-07). For more information regarding preparing and submitting comments about the statement of basis and permit, please see **Appendix A – Public Involvement**. Following the public comment period, the department may make changes to the draft NDPDES permit. The department will summarize the responses to comments and changes to the permit in **Appendix E – Response to Comments**.

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BACKGROUND INFORMATION

Table 1 – General Facility Information

Applicant:	Marathon Dickinson Refinery
Facility Name and Address:	Marathon Dickinson Refinery 3815 116 th Ave SW Dickinson, ND 58601
Owner:	Dakota Prairie Refinery, LLC
Operator:	Dakota Prairie Refinery, LLC
Permit Number:	NDP026999
Permit Type:	Minor, Pretreatment Significant <u>Categorical</u> Industrial User – New Source
Discharge Location:	Internal from pretreatment system to City of Dickinson POTW
Receiving POTW:	City of Dickinson
Standard Industrial Classification Code:	2869, Industrial Organic Chemicals, Not Elsewhere Classified
Facility Contact(s):	Jean Butterfield, Environmental Supervisor 701.456.6913 Justin Mecham, HESS Manager 701.667.2416 Richard Hastings, General Manager 701.667.2413

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Figure 1 – Location overview of Marathon Dickinson Refinery. Google Earth Imagery date May 30, 2017.

DESCRIPTION OF OPERATIONS

Dakota Prairie Refinery (refinery) began operation in 2014 under Andeavor (formerly Tesoro) refining Bakken crude oil into diesel and gasoline. In 2017 facility operation expanded to co-process a small percentage ($\leq 5\%$) of renewable feedstock into a blend of petroleum and Renewable Diesel (RD). In 2018 Marathon Corporation became the parent company of the refinery and soon after began conversion plans to produce a majority renewable feedstock RD blend from soybean and other vegetable oils. In addition to saleable diesel fuels the facility produces liquefied petroleum gas (LPG), stabilized naphtha (a gasoline feedstock), and other gas-oil intermediates. Facility updates for primary RD conversion include installation of a new RD hydrotreater train, and a new hydrogen plant with supporting facilities.

Since operations began in 2014, the facility has maintained an NDPDES wastewater pretreatment permit (NDP026689) which permitted the discharge of treated process wastewater to the City of Dickinson's Publicly Owned Treatment Works (POTW). The transition from processing crude oil to processing renewable feedstock presents new pollutants of concern and changes the facility's Standard Industrial Classification (SIC). As such, a new NDPDES permit has been developed to reflect appropriate wastewater pretreatment requirements. In May 2020 the refinery began shutting down operations to prepare for the facility's conversion. The existing NDPDES permit will be terminated upon issuance of the new permit.

This permit covers the discharge of process wastewater after treatment from refinery operations to the City of Dickinson's POTW. This discharge is a new source subject to 40 CFR Part 403 – General Pretreatment Regulations for Existing and New Sources of Pollution and 40 CFR Part 414 – Organic Chemicals, Plastics, and Synthetic Fibers.

Pretreatment Process

Treated effluent from the City of Dickinson's POTW is piped to the refinery to supply water for the renewable diesel refining process. Wastewater produced in the refining process is collected and first treated by gravity separation using an API (American Petroleum Institute) separator to remove the majority of oil and suspended solids (see **Figure 2**). Separated wastewater is then treated in a dissolved nitrogen flotation (DNF) unit to further remove particles. Treated wastewater then joins sanitary flows and is pumped through a lift station before ultimately discharging to the POTW. Sludge created is sampled and characterized prior to offsite disposal.

Production Rate

Based on the Water and Wastewater Balance report developed in 2019 by Jacobs, environmental consultant for the refinery's RD upgrade, total influent supplying industrial processes is estimated to be 284 gpm. This supplies disc filter backwash (9 gpm), cooling tower makeup (72 gpm), boiler feed demineralization treatment (193), and area washdown water (10 gpm).

Untreated wastewater is estimated to average 229 gpm consisting of disc filter backwash (9 gpm), cooling tower blowdown (29 gpm), ultrafiltration backwash (18 gpm), granular activated carbon backwash (16 gpm), reverse osmosis reject (56 gpm), boiler blowdown (13 gpm), stripper sour water (45 gpm), unrecovered steam condensate (33 gpm), and miscellaneous

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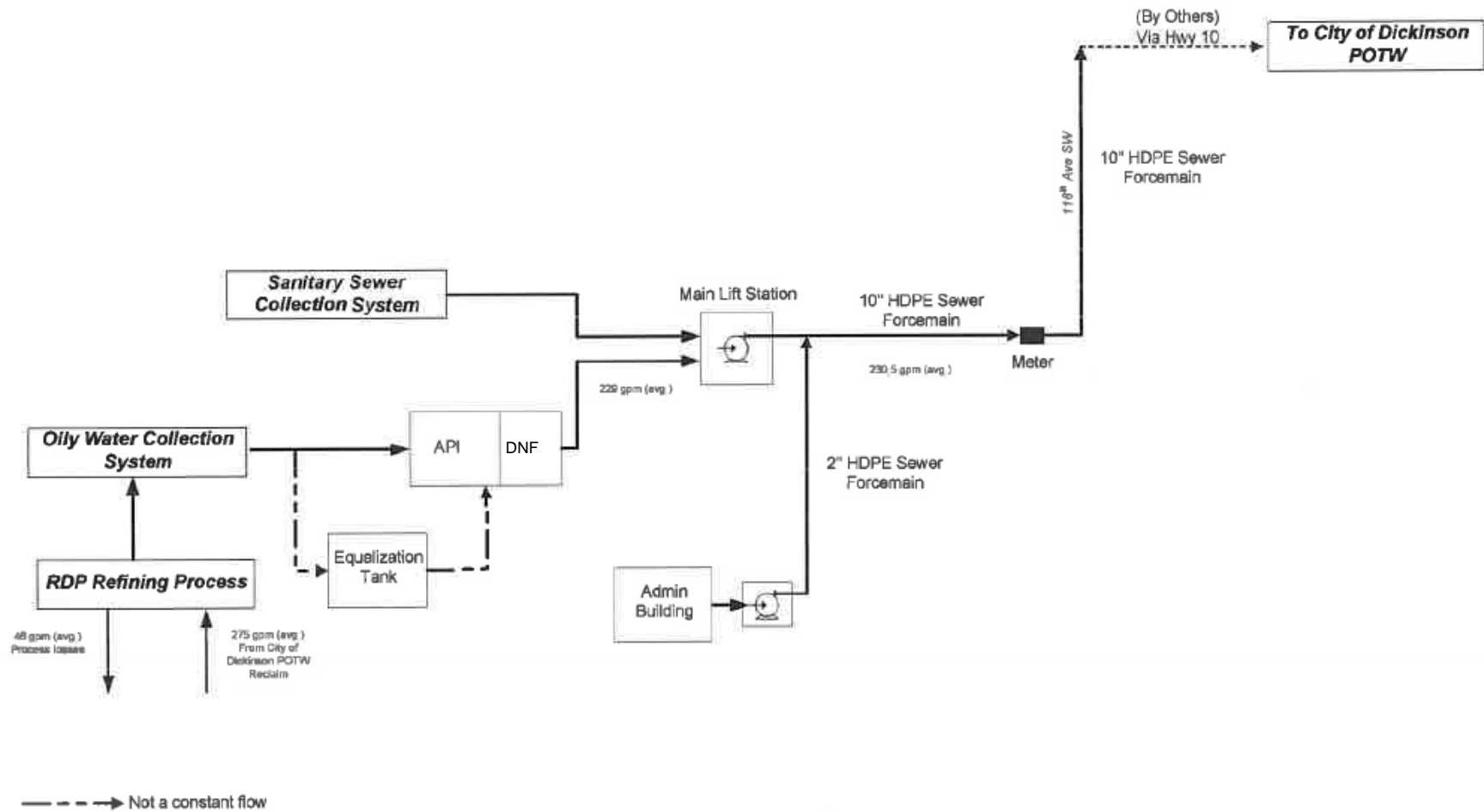


Figure 2 – Wastewater line drawing – Dickinson Refinery Post RDP Upgrade

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washdown and coalesce water (10 gpm). The final treated effluent rate is estimated to be slightly lower, averaging 224.4 gpm, when accounting for loss due to sludge and oil removal in the wastewater treatment process. The refinery is a continuous discharger.

When compared with the POTW’s average daily effluent flow (DMR data 6/1/2015 – 6/30/2020) the refinery is anticipated to contribute an average of 21% of total effluent flow at the POTW. Prior to shutting down for a complete RD upgrade, the refinery is estimated to have contributed an average of 12% of total effluent flow at the POTW. (see **Appendix C – Calculations**)

Outfall Description

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

Table 2 – Outfall location.

Outfall 001. Active. Final Pretreatment – Internal			
Latitude: 46.85861	Longitude: -102.8942	County: Stark	
Township: 139 N	Range: 79 W	Section: 15	QQ: AA
Description: The outfall is the control vault location where treated process wastewater and sanitary wastewater are collected prior to discharge to the POTW.			

PERMIT STATUS

On November 1, 2020, the department issued an individual pretreatment permit to Marathon Dickinson Refinery. Prior to this date the facility operated under an individual pretreatment permit for wastewater discharges from crude oil refining (NDP026689). The department has been in communication with the refinery as well as the City of Dickinson to obtain information regarding the assigned pH limits in the new permit. On May 3, 2021, the department received a letter from the refinery requesting a modification of the pH limits from the range of 6.0 – 9.0 S.U. to the range of 5.0 – 12.5 S.U. The refinery details that the modification request is based on the ability of the receiving POTW and to align the pH limit with standard pH limits for industrial wastewater pretreatment.

This facility is a Significant Industrial User and is therefore subject to pretreatment regulations described in NDAC 33.1-16-01.1. The department proposes to issue a new individual pretreatment permit for the updated refinery operation that allows process wastewater discharge to the City of Dickinson’s POTW. This facility is a Categorical Industrial User and is therefore subject to pretreatment regulations described in NDAC 33.1-16-01.1. The department proposes to modify an individual pretreatment permit issued to Marathon Dickinson Refinery that allows process wastewater discharge after treatment from renewable diesel refining operations to the City of Dickinson POTW.

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**SUMMARY OF COMPLIANCE WITH PRETREATMENT REGULATIONS AND
 CATEGORICAL LIMITS**

The permittee submitted two DMRs under the current permit cycle and reported exceedances during both monitoring periods. Reported exceedances are detailed below in **Table 3**. Individual excursions are detailed in **Appendix D – Timeline of Exceedances**.

Table 3 – Discharge Monitoring Report exceedance data 11/01/2020 – 03/31/2021.

<u>Parameter</u>	<u>Permit Daily Limit</u>	<u>DMR Max Daily Value</u>	<u>Permit Monthly Avg Limit</u>	<u>DMR Max Monthly Avg</u>	<u>Total Exceedances</u>
<u>Chlorides (lbs/day)</u>	<u>878</u>	<u>1338</u>	<u>NA</u>	<u>NA</u>	<u>9</u>
<u>NH3 as N (mg/L)</u>	<u>56.5</u>	<u>77.5</u>	<u>25.5</u>	<u>21.2</u>	<u>8</u>
<u>NH3 as N (lbs/day)</u>	<u>95.0</u>	<u>144</u>	<u>NA</u>	<u>NA</u>	
<u>Total Kjeldahl Nitrogen (TKN) (lbs/day)</u>	<u>150</u>	<u>161</u>	<u>NA</u>	<u>NA</u>	<u>1</u>
	<u>Permit Limit</u>		<u>DMR Range</u>		
<u>pH (S.U.)</u>	<u>Between 6.0 to 9.0 at all times</u>		<u>6.5 – 10.1</u>		<u>2*</u>
*The permittee reported a single exceedance for each Discharge Monitoring Report period in the current permit cycle. Each reported exceedance represents multiple time periods of excursion as detailed in Appendix D .					

Previous Permit Compliance Summary – NDP026689

Issuance of a new pretreatment permit ~~means~~meant no compliance history ~~is~~was available for review relative to the newly proposed limitations. A compliance history under the facility's existing ~~previous~~ pretreatment permit (NDP026689) is summarized below.

A 90-day compliance report was received by the department on August 17, 2015, following initial discharge to the POTW. The department's assessment of compliance is based on review of the facility's discharge monitoring reports (DMRs) and inspections conducted by the department. Over the duration of the previous permit (2014-2020) 5 inspections of the facility were conducted. In this period the facility had 323 total effluent exceedances. Chloride loading resulted in more than half of these exceedances. **Table 4** (below) summarizes exceedances for each permit parameter.

Table 4 – Refinery previous permit limits and Discharge Monitoring Report data summary March 1, 2015 – March 31, 2020.

Parameter	Permit Daily Limit	DMR Max Daily Value	Permit 30-day Limit	DMR Max 30-day Value	Total Exceedances
Chlorides (lbs/day)	878	2303	NA	605	199
Temperature (°F)	104	112.3	NA	NA	42
Phenols* (lbs/day))	2.4	2.8	NA	0.63 mg/L	29
NH3 as N (mg/L)	56.5	144	25.5	28.8	21
TKN (mg/L)	89.5	156	38	35	11
COD (mg/L)	1050	1220	500	293	8
O&G (mg/L)	100	311.3	NA	36.7	8
TSS (mg/L)	490	716	225	139	3
BOD5 (mg/L)	450	520	225	108	2
Chromium Total (mg/L)	0.0571	0.05	NA	0.05	0
pH (S.U.)	6.0 – 9.0	9	NA	NA	0
Phosphorus Total (mg/L)	23	8.1	12	3	0
Sulfide (mg/L)	NA	9.06	NA	2.1	0
Flow Process (MGD)	NA	3.8	NA	2.54	NA

*Previous phenol limit 0.60 lbs/day

Throughout the previous permit period the refinery worked in cooperation with the City of Dickinson POTW and the department to identify resolution of effluent exceedances, notably that of chloride and phenols. Chloride loading limits have been maintained following POTW evaluation of acceptable loading. Evaluation of phenolic loading limits by the POTW and DMR data review by the department resulted in a permit modification in May 2020 to allow an increase in phenolic loading to the POTW.

PROPOSED LIMITS AND SELF-MONITORING REQUIREMENTS

Pretreatment standards applicable to manufacturing of blended renewable fuels are best represented under 40 CFR 414 – Organic Chemicals, Plastics, and Synthetic Fibers. Further, Subpart F – Commodity Organic Chemicals best represents RD which is produced nationally in amounts greater than one billion pounds per year. As a new source, the refinery is subject to Section 414.66 – Pretreatment Standards for New Sources. Under Section 414.66 industrial users are required to maintain compliance with 40 CFR Part 403 and 414.111 – Toxic pollutant standards for indirect discharge point sources.

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The refinery produces R99, renewable diesel blended with 1% petroleum distillate. Guidelines under 40 CFR 414 specifically reflect the use of petroleum derived materials in the refining process. The facility uses majority biomass in the refining process and thus is not expected to produce contaminants as outlined under 40 CFR 414.111 in detectable amounts. To ensure protection of the POTW, the refinery is required to monitor parameters listed under 40 CFR 414.111 once per permit cycle, within the first twelve (12) months of the original permit issuance date (11/01/2020). Effluent limitations under 40 CFR 414.111 (previously listed by reference) are detailed in Table 6 for clarification.

Technology Based Effluent Limitations

NDPDES permits issued by the department must specify conditions requiring available and reasonable methods or prevention, control, and treatment of discharges to waters of the state. This facility shall follow all known, available, and reasonable treatment (AKART) so as not to interfere with the operation of the POTW.

Local Limits

The department has not required the City of Dickinson to develop an approved pretreatment program, thus the department is the pretreatment Control Authority. Pollutant loading from wastewater discharge with technology-based controls in place is not expected to cause problems such as interference, pass-through, or hazardous exposure to workers at the POTW, nor result in unacceptable pollutant levels in the POTW's sludge.

Effluent Limitations

Parameter limits specified under the previous permit shall be maintained. Pollutants that are not limited but believed to be present shall be monitored and will be evaluated prior to permit reissuance. The department proposes the following effluent limitations for Outfall 001:

Table 5 – Effluent Limitations, Outfall 001A.

Parameter	Daily Maximum		Monthly Max Average
	mg/L	lbs/day	mg/L
Total Suspended Solids (TSS)	490	820	255
Biochemical Oxygen Demand (BOD ₅)	450	750	225
Chemical Oxygen Demand (COD)	1050	1765	500
Oil and Grease	100	*	<u>Report*</u>
Ammonia as N	56.5	95.0	25.5
Chlorides	*	878	*
Chromium Total	0.0571	43.6 g/day	<u>Report*</u>
Phenols Total	*	2.4	<u>Report*</u>

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(Parameter)	(Daily Maximum)		(Monthly Max Average)
	(mg/L)	(lbs/day)	(mg/L)
Phosphorus as P Total	23	39	12
Total Kjeldahl Nitrogen (TKN)	89.5	150	38
Nitrate-Nitrite as N	<u>Report*</u>	*	<u>Report*</u>
Sulfate as SO ₄	<u>Report*</u>	*	<u>Report*</u>
Sulfides (dissolved)	<u>Report*</u>	*	<u>Report*</u>
Sulfite as SO ₃	<u>Report*</u>	*	<u>Report*</u>
Aluminum Total	<u>Report*</u>	*	<u>Report*</u>
Barium Total	<u>Report*</u>	*	<u>Report*</u>
Boron Total	<u>Report*</u>	*	<u>Report*</u>
Cobalt Total	<u>Report*</u>	*	<u>Report*</u>
Iron Total	<u>Report*</u>	*	<u>Report*</u>
Magnesium Total	<u>Report*</u>	*	<u>Report*</u>
Molybdenum Total	<u>Report*</u>	*	<u>Report*</u>
Manganese Total	<u>Report*</u>	*	<u>Report*</u>
Tin Total	<u>Report*</u>	*	<u>Report*</u>
Titanium Total	<u>Report*</u>	*	<u>Report*</u>
Total Days Discharging	<u>Report* Monthly Total</u>		
Total Facility Flow, MGD	<u>Report* Monthly Total</u>		
Process Flow, MGD	Report Max Daily Value*	Report <u>Max Monthly Average*</u>	
pH a/	<u>Between 6.0 to 9.0 S.U. at all times</u> <u>Between 5.0 to 12.5 S.U. at all times</u>		
Temperature	< 40 °C (104 °F) at all times		
<p>* This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.</p> <p>a/ The pH, an instantaneous limitation, shall be between 6.0 S.U. and 9.0 S.U. Any single analysis and or measurements beyond this limitation shall be considered a violation of the conditions of this permit.</p>			

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Table 6 – Effluent Limitations, Outfall 001P. Parameters listed under 40 CFR 414.111.

Parameter	Daily Maximum		Monthly Max Average	
	<u>µg/L</u>	<u>lbs/day</u>	<u>µg/L</u>	<u>lbs/day</u>
Acenaphthene	*	<u>0.13</u>	*	<u>0.05</u>
Anthracene	*	<u>0.13</u>	*	<u>0.05</u>
Benzene	*	<u>0.36</u>	*	<u>0.15</u>
Bis(2-ethylhexyl) phthalate	*	<u>0.69</u>	*	<u>0.26</u>
Carbon Tetrachloride	*	<u>1.02</u>	*	<u>0.38</u>
Chlorobenzene	*	<u>1.02</u>	*	<u>0.38</u>
Chloroethane	*	<u>0.79</u>	*	<u>0.30</u>
Chloroform	*	<u>0.87</u>	*	<u>0.30</u>
Di-n-butyl phthalate	*	<u>0.12</u>	*	<u>0.05</u>
1,2-Dichlorobenzene	*	<u>2.14</u>	*	<u>0.53</u>
1,3-Dichlorobenzene	*	<u>1.02</u>	*	<u>0.38</u>
1,4-Dichlorobenzene	*	<u>1.02</u>	*	<u>0.38</u>
1,1-Dichloroethane	*	<u>0.16</u>	*	<u>0.06</u>
1,2-Dichloroethane	*	<u>1.55</u>	*	<u>0.48</u>
1,1-Dichloroethylene	*	<u>0.16</u>	*	<u>0.06</u>
1,2-trans-Dichloroethylene	*	<u>0.18</u>	*	<u>0.07</u>
1,2-Dichloropropane	*	<u>2.14</u>	*	<u>0.53</u>
1,3-Dichloropropylene	*	<u>2.14</u>	*	<u>0.53</u>
Diethyl phthalate	*	<u>0.30</u>	*	<u>0.12</u>
Dimethyl phthalate	*	<u>0.13</u>	*	<u>0.05</u>
4,6-Dinitro-o-cresol	*	<u>0.75</u>	*	<u>0.21</u>
Ethylbenzene	*	<u>1.02</u>	*	0.38
Fluoranthene	*	<u>0.15</u>	*	0.06
Fluorene	*	<u>0.13</u>	*	0.05
Hexachlorobenzene	*	<u>2.14</u>	*	0.53
Hexachlorobutadiene	*	<u>1.02</u>	*	0.38

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(Parameter)	(Daily Maximum)		(Monthly Max Average)	
	(µg/L)	(lbs/day)	(µg/L)	(lbs/day)
Hexachloroethane	*	2.14	*	0.53
Methyl Chloride	*	0.79	*	0.30
Methylene Chloride	*	0.46	*	0.10
Naphthalene	*	0.13	*	0.05
Nitrobenzene	*	17.23	*	6.02
2-Nitrophenol	*	0.62	*	0.17
4-Nitrophenol	*	1.55	*	0.44
Phenanthrene	*	0.13	*	0.05
Pyrene	*	0.13	*	0.05
Tetrachloroethylene	*	0.44	*	0.14
Toluene	*	0.20	*	0.08
Total Cyanide	*	3.23	*	1.13
Total Lead	*	1.86	*	0.86
Total Zinc	*	7.03	*	2.83
1,2,4-Trichlorobenzene	*	2.14	*	0.53
1,1,1-Trichloroethane	*	0.16	*	0.06
1,1,2-Trichloroethane	*	0.34	*	0.09
Trichloroethylene	*	0.19	*	0.07
Vinyl Chloride	*	0.46	*	0.26

* This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.
Loading limits based on an average wastewater flow rate of 224 gpm. See Appendix C – Calculations.

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

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With the exception of pH, all pollutant monitoring and limits will remain the same as the current permit. The permittee has a requested modification to pH limits from a range of 6.0 – 9.0 S.U. to a range of 5.0 to 12.5 S.U. The standard minimum permitted pH for industrial users discharging to POTWs is 5.0 S.U. (403.5(b)(2)). Maximum pH for NDPDES industrial users is 12.5 S.U. based on best professional judgement. Currently, the City of Dickinson’s POTW receives wastewater from industrial users with a permitted range of 5.0 – 12.5 S.U. The refinery has maintained pH within the standard range of 5.0 – 12.5 S.U. during startup of new RD operations (see **Table 3**). The department has discussed the modification request with the POTW and has confirmed that the POTW is able to accept pretreated industrial wastewater from the refinery with a permitted pH range of 5.0 – 12.5 S.U.

Based on the ability of the City of Dickinson POTW to receive treated industrial wastewater with a pH within the range of 5.0 – 12.5 S.U., as well as the department’s review of existing industrial user pH limits, a new pH limit of 5.0 – 12.5 S.U. is an acceptable permit modification. The modification to pH limits includes language specifying pH monitoring and reporting requirements, as detailed in **Table 7** and under **Other Permit Conditions – Reporting Requirements**.

Any additional monitoring and reporting to demonstrate compliance with pretreatment requirements and standards under 40 CFR 403.12 are to be reported on the semiannual DMR.

Self-Monitoring Requirements

Monitoring, recording, and reporting are specified to verify that the treatment process is functioning correctly and to verify compliance with permit limitations. The permittee is required to collect samples that are representative of discharged wastewater. Samples shall be taken when typical operations are in progress and the usual process wastewaters are generated. The department may require increased sample frequency based on sample history and to protect the receiving POTW.

The minimum monitoring schedule is detailed below in **Table 7** and **Table 8**. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, pollutant significance, and monitoring cost.

Table 7 – Self-Monitoring Requirements, Outfall 001A.

Parameter	Sample Type ^{1,2}	Frequency
Total Suspended Solids (TSS)	Composite	3/week
Biochemical Oxygen Demand (BOD ₅)	Composite	3/week
Chemical Oxygen Demand (COD)	Composite	3/week
Oil and Grease ^{a/}	Grab	3/week
Ammonia as N	Composite	3/week
Chlorides	Composite	3/week
Chromium Total	Composite	3/week

(Parameter)	(Sample Type ^{1,2})	(Frequency)
Phenols Total ^{a/}	Grab	3/week
Phosphorus as P Total	Composite	3/week
Total Kjeldahl Nitrogen (TKN)	Composite	3/week
Nitrate-Nitrite as N	Composite	Semiannual
Sulfate as SO ₄	Grab	Semiannual
Sulfides (dissolved) ^{a/}	Grab	3/week
Sulfite as SO ₃	Grab	Semiannual
Aluminum Total	Composite	Semiannual
Barium Total	Composite	Semiannual
Boron Total	Composite	Semiannual
Cobalt Total	Composite	Semiannual
Iron Total	Composite	Semiannual
Magnesium Total	Composite	Semiannual
Molybdenum Total	Composite	Semiannual
Manganese Total	Composite	Semiannual
Tin Total	Composite	Semiannual
Titanium Total	Composite	Semiannual
Total Days Discharging	Calculated	Report Monthly Total <u>Quarterly</u>
Total Facility Flow, MGD	Calculated (<u>Meter</u>)	Report Monthly Total <u>Quarterly</u>
Process Flow, MGD	Recorder <u>Calculated (Meter)</u>	Report Max Daily Value and <u>Monthly Average</u> <u>Daily</u>
pH (S.U.) ^{b/}	Continuous <u>Instantaneous</u>	Instantaneous <u>Continuous</u>
Temperature ^{b/}	Continuous <u>Instantaneous</u>	Instantaneous <u>Continuous</u>

¹Composite shall be time-proportional samples with a minimum of 12 aliquots composited over a 24-hour sample period. Aliquots must be collected at intervals representative of the entire sample period.

² Grab samples must be representative of the process wastestream and shall be a single, discrete sample collected over a period not exceeding 15 minutes.

a/ Grab samples must be used for oil and grease, total phenols, and sulfides. A minimum of one (1) grab sample over a 24-hour sample period shall be taken for each parameter. Multiple samples for oil and grease shall be composited in the laboratory. Multiple samples for total phenols and sulfides shall each be composited in the laboratory or in the field.

b/ The department has determined that, based on Best Professional Judgement, continuous pH and temperature monitoring consisting of recordings no less than once every 1 (one) minute during discharge is representative of the facility's process wastestream.

Table 8 – Self-Monitoring Requirements, Outfall 001P. Parameters listed under 40 CFR 414.111.

Parameter	Sample Type ^{1,2,3}	Frequency ^{a/}
Acenaphthene	Composite	1/permit cycle
Anthracene	Composite	1/permit cycle
Benzene	Composite	1/permit cycle
Bis(2-ethylhexyl) phthalate	Composite	1/permit cycle
Carbon Tetrachloride	Composite	1/permit cycle
Chlorobenzene	Composite	1/permit cycle
Chloroethane	Composite	1/permit cycle
Chloroform	Composite	1/permit cycle
Di-n-butyl phthalate	Composite	1/permit cycle
1,2-Dichlorobenzene	Composite	1/permit cycle
1,3-Dichlorobenzene	Composite	1/permit cycle
1,4-Dichlorobenzene	Composite	1/permit cycle
1,1-Dichloroethane	Composite	1/permit cycle
1,2-Dichloroethane	Composite	1/permit cycle
1,1-Dichloroethylene	Composite	1/permit cycle
1,2-trans-Dichloroethylene	Composite	1/permit cycle
1,2-Dichloropropane	Composite	1/permit cycle
1,3-Dichloropropylene	Composite	1/permit cycle
Diethyl phthalate	Composite	1/permit cycle
Dimethyl phthalate	Composite	1/permit cycle
4,6-Dinitro-o-cresol	Composite	1/permit cycle

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(Parameter)	(Sample Type ^{1,2,3})	(Frequency ^{a/})
Ethylbenzene	Composite	1/permit cycle
Fluoranthene	Composite	1/permit cycle
Fluorene	Composite	1/permit cycle
Hexachlorobenzene	Composite	1/permit cycle
Hexachlorobutadiene	Composite	1/permit cycle
Hexachloroethane	Composite	1/permit cycle
Methyl Chloride	Composite	1/permit cycle
Methylene Chloride	Composite	1/permit cycle
Naphthalene	Composite	1/permit cycle
Nitrobenzene	Composite	1/permit cycle
2-Nitrophenol	Composite	1/permit cycle
4-Nitrophenol	Composite	1/permit cycle
Phenanthrene	Composite	1/permit cycle
Pyrene	Composite	1/permit cycle
Tetrachloroethylene	Composite	1/permit cycle
Toluene	Composite	1/permit cycle
Total Cyanide	Grab	1/permit cycle
Total Lead	Composite	1/permit cycle
Total Zinc	Composite	1/permit cycle
1,2,4-Trichlorobenzene	Composite	1/permit cycle
1,1,1-Trichloroethane	Composite	1/permit cycle
1,1,2-Trichloroethane	Composite	1/permit cycle
Trichloroethylene	Composite	1/permit cycle
Vinyl Chloride	Composite	1/permit cycle
¹ Composite shall be time-proportional samples with a minimum of 12 aliquots composited over a 24-hour sample period. Aliquots must be collected at intervals representative of the entire sample period.		

² Grab samples must be representative of the process wastestream and shall be a single, discrete sample collected over a period not exceeding 15 minutes. Where multiple grabs are collected, samples must be collected at intervals representative of a 24-hour sample period.

³ Grab samples must be used for total cyanide and volatile organic compounds (VOCs). A minimum of four (4) grab samples over a 24-hour sample period must be collected for cyanide and each VOC. VOC samples shall be composited in the laboratory. Cyanide samples shall be composited in the laboratory or in the field.

^{a/} Parameters listed under 40 CFR 414.111 shall be monitored 1/permit cycle within the first twelve (12) months of the original permit issuance date.

The permittee shall promptly notify the department and the POTW in advance of any substantial change in the volume or character of pollutants in the permittee's discharge as outlined in 40 CFR 403.12(j).

OTHER PERMIT CONDITIONS

General Prohibitions

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

Specific Prohibitions

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

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

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

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.

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 (40 CFR 403.12).

pH

The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances from Outfall 001A for each reporting period. Individual pH readings shall be recorded no less than once per minute during discharge on the basis of Best Professional Judgement (see **Table 7**).

A single pH exceedance shall be noted upon pH falling outside of the assigned limits for a period less than or equal to 1 (one) minute; all excursions measured within the 1-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 1-minute period thereafter in which one or more excursions have been measured.

Temperature

The permittee is required to report maximum temperature and the number of temperature exceedances from Outfall 001A for each reporting period. Individual temperature readings shall be recorded no less than once per minute during discharge on the basis of Best Professional Judgement (see **Table 7**).

A single temperature exceedance shall be noted upon temperature reaching or exceeding 104°F (40°C) for a period of less than or equal to 1 (one) minute; all excursions measured within the 1-minute period shall be reported as a single exceedance. An additional temperature exceedance shall be noted for each 1-minute period thereafter in which one or more excursions have been measured.

The facility shall notify the POTW and department of each pH and temperature 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

This permit requirement was included to ensure proper operation and regular maintenance of equipment. This provides safeguards so that constructed facilities are used to their optimum potential in terms of pollutant capture and treatment.

An Operation and Maintenance (O & M) Manual shall be required. This manual shall detail sampling procedures taken during or prior to the discharge of wastewater. The manual shall list the person responsible for sampling. This manual shall also 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 when sampling procedures change.

Sludge Disposal

Sludge created in the facility pretreatment process shall be disposed of in accordance with all federal, state, and local regulations.

Spill and Slug Discharge Control Plan

~~Spill and Slug Discharge Prevention, Control, and Countermeasure Plan (SPCCP)~~

The department has the authority to require the permittee to develop best management practices to prevent a slug discharge or a spill release ~~under section 402(a)(1) of the CWA~~ as stated in NDAC 33.1-16-01.1 Appendix A. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge. Where required, the permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages if such a discharge/spill occurs. The facility stores chemicals on site from which a potential spill could impact wastewater discharge. The permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages if such a spill occurs. The ~~SPCCP~~plan shall include the following:

1. A description of a reporting system to be used to immediately notify facility management, the POTW operator, and appropriate state, federal, and local authorities of any spills or slug discharges, and provisions to provide a written follow-up report within five days;
2. A description of operator training, equipment, and facilities (including overall facility plan) for preventing, containing, or treating spills or slug discharges;
3. 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;
4. A description of discharge practices for batch and continuous processes under normal and non-routine circumstances; and,

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5. An implementation schedule including additional operator training and procurement and installation of equipment or facilities required to properly implement the plan.

The result of any slug discharge or spill shall be available to the department upon request.

The existing permit requires the permittee to develop and submit a Spill and Slug Discharge Control Plan (previously referred to as a Spill and Slug Prevention Control and Countermeasure Plan (SPCCP)) on the condition that the facility stores any chemicals with the potential to cause water pollution if unintentionally released.

Public Notification of 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.

PERMIT ISSUANCE PROCEDURES

Permit Modifications

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

Proposed Permit ~~Issuance~~Modification

This proposed permit modification meets all statutory requirements for the department to authorize a wastewater discharge. The department proposes to ~~issue~~modify this permit for ~~a term of five (5) years~~the remainder of the original five (5) year term.

APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to modify a permit to **Marathon Dickinson Refinery**. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the department's basis for requiring a permit.

The department will place a Public Notice of Draft on **August 11, 2021** in **The Dickinson Press** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and statement of basis.

The Notice –

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

You may obtain further information from the department by telephone, 701.328.5210 or by writing to the address listed below:

North Dakota Department of Environmental Quality
Division of Water Quality
918 East Divide Avenue, 4th Floor
Bismarck, ND 58501

The primary author of this permit and statement of basis is Emily Joynt.

Name of the Newspaper: Dickinson Press

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

Public Notice Date: 8/11/2021

Purpose of Public Notice

The Department intends to modify 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

Public Notice Number: ND-2021-027

Application Date: 5/3/2021

Application Number: NDP026999

Applicant Name: Dakota Prairie Refining

Mailing Address: 3815 116th Avenue SW Dickinson, ND 58601

Telephone Number: 701.456.6939

Proposed Permit Expiration Date: 10/31/2025

Facility Description

Marathon Dickinson Refinery is a renewable diesel refining facility located at 3815 116th Ave SW in Dickinson, ND 58601 in Stark County. Treated process wastewater from the facility discharges to the city of Dickinson's publicly owned treatment works. The refinery is a regulated categorical industrial user that requires a permit issued under the North Dakota Pollutant Discharge Elimination System program. This discharger is a new source subject to 40 CFR Part 414.66 (Commodity Organic Chemicals) and must comply with NDAC 33.1-16-01.1. The proposed permit modification addresses changes to pH limits and standard conditions for industrial users.

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, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by September 10, 2021 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

Content has been added to/removed from initial document during permit modification. Added language has been underlined, removed language has been stricken.

Name of the Newspaper: Dickinson Press

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

Public Notice Date: 9/16/2020

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

Public Notice Number: ND-2020-026

Application Date: 1/13/2020

Application Number: NDP026999

Applicant Name: Marathon Dickinson Refinery

Mailing Address: 3815 116th Ave. SW, Dickinson, ND 58601

Telephone Number: 701.456.6939

Proposed Permit Expiration Date: 10/31/2025

Facility Description

Marathon Dickinson Refinery is a renewable diesel refining facility located at 3815 116th Ave SW in Dickinson, ND 58601 in Stark County. Treated process wastewater from the facility will discharge to the city of Dickinson's publicly owned treatment works. The refinery is a regulated categorical industrial user that requires a permit issued under the North Dakota Pollutant Discharge Elimination System program. This discharge is a new source subject to 40 CFR Part 414.66 (Commodity Organic Chemicals) and must comply with NDAC 33.1-16-01.1.

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, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by October 16, 2020 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

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APPENDIX B – DEFINITIONS Pretreatment Permit – BP~~2019.01.01~~ 2020.11.12

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

13. "**Industrial user**" or "**user**" means a source of indirect discharge.

~~(14. "Instantaneous" for monitoring requirement, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.)~~

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

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

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

- a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
- c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - (1) Begun, or caused to begin as part of a continuous onsite construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or

- (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.
- 16. "**Passthrough**" means a discharge which exits the publicly owned treatment works into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
- 17. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
- 18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
- 19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
- 20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
- 21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
23. "**Significant industrial user**" means:
- a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;
 - b. Any other industrial user that meets at least one of the following criteria:
 - (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
 - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
 - c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - (3) The industrial user never discharges any untreated concentrated wastewater.
 - d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.

24. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.
25. "**Water management division director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

APPENDIX C – CALCULATIONS

Estimated daily effluent refinery to POTW under former crude oil processing = 0.189 MGD
 (value based on refinery DMR data 06/01/2015-03/31/2020; May 2015 DMR data excluded due to inconsistent facility startup flows)

Estimated daily effluent refinery to POTW under new RD processing = 0.323 MGD
 (based on refinery flow estimate of 224 gpm)

City of Dickinson POTW Outfall 005 effluent DMR data and estimated refinery flow contributions

DMR Period	Average Daily POTW Effluent (MGD)	Refinery Percent of Daily Flow (crude process)	Refinery Percent of Daily Flow (RD process)
June 2015	1.900	9.047	15.880
July 2015	1.970	8.754	15.352
August 2015	1.950	8.836	15.499
September 2015	1.900	9.047	15.880
October 2015	2.000	8.634	15.136
November 2015	1.795	9.526	16.744
December 2015	1.900	9.047	15.880
January 2016	1.439	11.609	20.534
February 2016	1.582	10.672	18.823
March 2016	1.883	9.122	16.014
April 2016	1.915	8.983	15.764
May 2016	1.914	8.987	15.771
June 2016	1.522	11.046	19.505
July 2016	1.408	11.835	20.947
August 2016	0.908	17.229	30.998
September 2016	1.571	10.739	18.944
October 2016	1.294	12.744	22.619
November 2016	1.165	13.959	24.865
December 2016	1.173	13.877	24.713
January 2017	1.260	13.043	23.171

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STATEMENT OF BASIS FOR NDPDES PERMIT NDP026999 – MODIFICATION DRAFT
 MARATHON DICKINSON REFINERY
 EXPIRATION DATE: OCTOBER 31, 2025
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(DMR Period)	[Average Daily POTW Effluent (MGD)]	[Refinery Percent of Daily Flow (crude process)]	[Refinery Percent of Daily Flow (RD process)]
February 2017	1.196	13.646	24.286
March 2017	1.425	11.710	20.718
April 2017	0.599	23.985	44.065
*May 2017	0.096	66.292	140.435
June 2017	0.977	16.209	29.073
July 2017	1.062	15.108	27.007
August 2017	1.145	14.168	25.254
September 2017	1.206	13.548	24.104
October 2017	1.605	10.535	18.574
November 2017	1.778	9.609	16.893
December 2017	1.364	12.170	21.562
January 2018	0.883	17.631	31.760
February 2018	1.534	10.969	19.365
March 2018	2.050	8.441	14.789
April 2018	1.981	8.710	15.272
May 2018	1.516	11.085	19.576
June 2018	1.310	12.608	22.368
July 2018	2.194	7.931	13.875
August 2018	0.572	24.836	45.751
September 2018	0.318	37.278	71.460
October 2018	0.251	42.955	83.896
November 2018	2.001	8.630	15.129
December 2018	1.917	8.974	15.748
January 2019	1.945	8.857	15.536
February 2019	1.931	8.915	15.642
March 2019	0.903	17.308	31.148

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(DMR Period)	[Average Daily POTW Effluent (MGD)]	[Refinery Percent of Daily Flow (crude process)]	[Refinery Percent of Daily Flow (RD process)]
April 2019	2.016	8.571	15.023
May 2019	2.124	8.171	14.305
June 2019	2.022	8.548	14.981
July 2019	2.107	8.232	14.413
August 2019	1.900	9.047	15.880
September 2019	2.715	6.508	11.337
October 2019	2.561	6.873	11.985
November 2019	2.008	8.603	15.079
December 2019	2.169	8.015	14.025
January 2020	2.191	7.941	13.892
February 2020	2.260	7.717	13.492
March 2020	2.234	7.800	13.640
April 2020	2.154	8.067	14.117
May 2020	2.146	8.094	14.167

*May 2017 effluent volume excludes > 70 million gallons reused by local industry

Average refinery (crude process) percent of POTW daily effluent = 11.945

Average refinery (RD process) percent of POTW daily effluent = 21.394

Loading limits calculations under 40 CFR 414.111 – Toxic pollutant standards for indirect discharge point sources.

Loading limits are determined based on an average wastewater flow rate of 224 gpm (322,560 gpd), as determined by the refinery’s Water and Wastewater Balance report composed by Jacobs engineering on March 18, 2019 (see permittee application package).

Under 40 CFR 414.111 point source dischargers must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart (224 gpm) times the concentration listed in the following table.

<u>Parameter</u>	<u>Daily Maximum</u>		<u>Monthly Max Average</u>	
	<u>µg/L</u>	<u>lbs/day</u>	<u>µg/L</u>	<u>lbs/day</u>
<u>Acenaphthene</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>
<u>Anthracene</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>
<u>Benzene</u>	<u>134</u>	<u>0.36</u>	<u>57</u>	<u>0.15</u>
<u>Bis(2-ethylhexyl) phthalate</u>	<u>258</u>	<u>0.69</u>	<u>95</u>	<u>0.26</u>
<u>Carbon Tetrachloride</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>Chlorobenzene</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>Chloroethane</u>	<u>295</u>	<u>0.79</u>	<u>110</u>	<u>0.30</u>
<u>Chloroform</u>	<u>325</u>	<u>0.87</u>	<u>111</u>	<u>0.30</u>
<u>Di-n-butyl phthalate</u>	<u>43</u>	<u>0.12</u>	<u>20</u>	<u>0.05</u>
<u>1,2-Dichlorobenzene</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>1,3-Dichlorobenzene</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>1,4-Dichlorobenzene</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>1,1-Dichloroethane</u>	<u>59</u>	<u>0.16</u>	<u>22</u>	<u>0.06</u>
<u>1,2-Dichloroethane</u>	<u>574</u>	<u>1.55</u>	<u>180</u>	<u>0.48</u>
<u>1,1-Dichloroethylene</u>	<u>60</u>	<u>0.16</u>	<u>22</u>	<u>0.06</u>
<u>1,2-trans-Dichloroethylene</u>	<u>66</u>	<u>0.18</u>	<u>25</u>	<u>0.07</u>
<u>1,2-Dichloropropane</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>1,3-Dichloropropylene</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>Diethyl phthalate</u>	<u>113</u>	<u>0.30</u>	<u>46</u>	<u>0.12</u>
<u>Dimethyl phthalate</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>

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(Parameter)	(Daily Maximum)		(Monthly Max Average)	
	(<u>µg/L</u>)	(<u>lbs/day</u>)	(<u>µg/L</u>)	(<u>lbs/day</u>)
<u>4,6-Dinitro-o-cresol</u>	<u>277</u>	<u>0.75</u>	<u>78</u>	<u>0.21</u>
<u>Ethylbenzene</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>Fluoranthene</u>	<u>54</u>	<u>0.15</u>	<u>22</u>	<u>0.06</u>
<u>Fluorene</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>
<u>Hexachlorobenzene</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>Hexachlorobutadiene</u>	<u>380</u>	<u>1.02</u>	<u>142</u>	<u>0.38</u>
<u>Hexachloroethane</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>Methyl Chloride</u>	<u>295</u>	<u>0.79</u>	<u>110</u>	<u>0.30</u>
<u>Methylene Chloride</u>	<u>170</u>	<u>0.46</u>	<u>36</u>	<u>0.10</u>
<u>Naphthalene</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>
<u>Nitrobenzene</u>	<u>6,402</u>	<u>17.23</u>	<u>2,237</u>	<u>6.02</u>
<u>2-Nitrophenol</u>	<u>231</u>	<u>0.62</u>	<u>65</u>	<u>0.17</u>
<u>4-Nitrophenol</u>	<u>576</u>	<u>1.55</u>	<u>162</u>	<u>0.44</u>
<u>Phenanthrene</u>	<u>47</u>	<u>0.13</u>	<u>19</u>	<u>0.05</u>
<u>Pyrene</u>	<u>48</u>	<u>0.13</u>	<u>20</u>	<u>0.05</u>
<u>Tetrachloroethylene</u>	<u>164</u>	<u>0.44</u>	<u>52</u>	<u>0.14</u>
<u>Toluene</u>	<u>74</u>	<u>0.20</u>	<u>28</u>	<u>0.08</u>
<u>Total Cyanide</u>	<u>1,200</u>	<u>3.23</u>	<u>420</u>	<u>1.13</u>
<u>Total Lead</u>	<u>690</u>	<u>1.86</u>	<u>320</u>	<u>0.86</u>
<u>Total Zinc</u>	<u>2,610</u>	<u>7.03</u>	<u>1,050</u>	<u>2.83</u>
<u>1,2,4-Trichlorobenzene</u>	<u>794</u>	<u>2.14</u>	<u>196</u>	<u>0.53</u>
<u>1,1,1-Trichloroethane</u>	<u>59</u>	<u>0.16</u>	<u>22</u>	<u>0.06</u>
<u>1,1,2-Trichloroethane</u>	<u>127</u>	<u>0.34</u>	<u>32</u>	<u>0.09</u>
<u>Trichloroethylene</u>	<u>69</u>	<u>0.19</u>	<u>26</u>	<u>0.07</u>
<u>Vinyl Chloride</u>	<u>172</u>	<u>0.46</u>	<u>97</u>	<u>0.26</u>

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APPENDIX D – DURATION OF EXCURSIONS

Periods of excursion from assigned pH limits during Discharge Monitoring Report periods
 11/01/2020 – 12/31/2020 and 01/01/2021-03/31/2021.

Start Date	Start Time	End Date	End Time
12/19/2020	03:30	12/20/2020	06:30
12/29/2020	04:18	12/29/2020	11:48
01/05/2021	14:42	01/05/2021	14:57
01/05/2021	23:21	01/06/2021	20:09
01/14/2021	00:26	01/15/2021	03:49
01/16/2021	07:18	01/16/2021	16:20
01/17/2021	05:57	01/18/2021	02:31
01/18/2021	12:50	01/18/2021	20:26
01/19/2021	19:19	01/19/2021	20:41
01/20/2021	04:34	01/20/2021	05:33
01/20/2021	19:27	01/20/2021	20:05
01/28/2021	04:49	01/28/2021	20:19
01/29/2021	10:55	01/29/2021	19:59
01/30/2021	00:31	01/30/2021	04:27
01/30/2021	19:40	01/30/2021	20:35
01/31/2021	06:30	01/31/2021	11:43
01/31/2021	22:01	01/31/2021	22:26
02/01/2021	06:15	02/01/2021	09:19
02/01/2021	23:43	02/02/2021	01:53
02/02/2021	11:23	02/02/2021	16:57
02/02/2021	23:55	02/03/2021	03:50
02/05/2021	11:02	02/07/2021	14:22
02/08/2021	01:53	02/08/2021	14:14
02/09/2021	06:50	02/09/2021	08:53
02/09/2021	11:40	02/09/2021	12:17

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(Start Date)	(Start Time)	(End Date)	(End Time)
02/09/2021	15:42	02/09/2021	17:21
02/09/2021	23:39	02/10/2021	12:52
02/10/2021	19:28	02/11/2021	03:03
02/11/2021	10:24	02/11/2021	12:56
02/11/2021	17:07	02/14/2021	22:59
02/15/2021	04:49	02/15/2021	06:52
02/15/2021	10:50	02/16/2021	23:34
02/19/2021	09:21	02/19/2021	22:06
02/20/2021	08:04	02/20/2021	11:48
02/20/2021	15:57	02/20/2021	16:40
02/20/2021	21:34	02/21/2021	00:13
02/21/2021	07:38	02/21/2021	18:21
02/22/2021	07:05	03/01/2021	01:02

Dates of excursions from assigned limits during Discharge Monitoring Report periods 11/01/2020 – 12/31/2020 and 01/01/2021-03/31/2021.

Parameter	Exceedance Type	Exceedance Date
Chlorides (lbs/day)	Daily Maximum	12/8/2020
Chlorides (lbs/day)	Daily Maximum	12/9/2020
Chlorides (lbs/day)	Daily Maximum	12/22/2020
Chlorides (lbs/day)	Daily Maximum	12/23/2020
Chlorides (lbs/day)	Daily Maximum	1/11/2021
Chlorides (lbs/day)	Daily Maximum	1/12/2021
Chlorides (lbs/day)	Daily Maximum	2/1/2021
Chlorides (lbs/day)	Daily Maximum	2/2/2021
Chlorides (lbs/day)	Daily Maximum	2/3/2021
Chlorides (lbs/day)	Daily Maximum	2/22/2021
NH3 as N (lbs/day)	Daily Maximum	12/21/2020

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(Parameter)	(Exceedance Type)	(Exceedance Date)
NH3 as N (lbs/day)	Daily Maximum	12/23/2020
NH3 as N (lbs/day)	Daily Maximum	12/28/2020
NH3 as N (lbs/day)	Daily Maximum	1/13/2021
NH3 as N (lbs/day)	Daily Maximum	2/18/2021
NH3 as N (mg/L)	Daily Maximum	12/21/2020
NH3 as N (mg/L)	Daily Maximum	12/28/2020
NH3 as N (mg/L)	Daily Maximum	1/13/2021
TKN (lbs/day)	Daily Maximum	1/13/2021

APPENDIX E – RESPONSE TO COMMENTS

Comment and Response for Public Notice ND-2020-026

Comments were submitted by the North Dakota Parks and Recreation Department and the City of Dickinson during the 30-day public notice period ending October 16, 2020. Comments are identified below and the department's response to each comment follows.

1. **City of Dickinson Comment 1:** Total phenols sample should be a composite sample rather than a grab sample. The POTW samples Total phenols with a composite sample and would match the POTW requirements.

Department Response: Thank you for your comment. According to 40 CFR Part 403 Appendix E – Sampling Procedures, under the General Pretreatment Regulations for Existing and New Sources of Pollution: “Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which takes place after sample collection and affect the results.” Based on this information the department has determined that “grab” samples are representative of Total Phenols and Total Cyanide. The Sample Type for Total Cyanide has been updated accordingly in Table 6 of the SOB and Page 11 of the permit.

2. **City of Dickinson Comment 2:** The refinery should have the pH analysis performed by an individual who has been field pH certified by the State of North Dakota. This would match requirements of the POTW.

Department Response: Thank you for your comment. Section II(B) of the permit, Test Procedures, requires “All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136.”. In addition, the state of North Dakota offers training for pH certification.

3. **City of Dickinson Comment 3:** The refinery should have an operator that is certified to the level of complexity of the API separator unit. A certified operator would ensure proper operation and maintenance of the unit as well as dedicated individual(s) to the successful operation of the process.

Department Response: Thank you for your comment. The department has determined that Section III(B) of the permit addresses the intent of your comment. Proper Operation and Maintenance requires “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.”

4. **City of Dickinson Comment 4:** Allow the local POTW entry as specified by page 18, section IV A for the EPA and NDDEQ.

Department Response: Thank you for your comment. The department has determined that Section IV(A) of the permit, Inspection and Entry, applies to department and EPA

representatives. The City of Dickinson may work to develop local ordinances which may include POTW right of entry.

5. **City of Dickinson Comment 5:** Allow POTW to split composite sample with the refinery when requested.

Department Response: Thank you for your comment. The permit is written in accordance with the collection and testing procedures of 40 CFR Parts 136 and 403. Please refer to the Department’s response to Comment 4.

6. **City of Dickinson Comment 6:** Specify in the permit the type of effluent composite sample being taken/collected (time, flow-proportioned, etc.).

Department Response: Thank you for your comment. The department has determined that time-proportional composite sampling is representative of the facility’s discharge. This determination is based on the facility being a continuous discharger with expected low-variability in flow. The permittee is subject to 40 CFR Part 403 Appendix E – Sampling Procedures of the General Pretreatment Regulations for Existing and New Sources of Pollution. Appendix E describes that “If discrete sampling is employed, at least 12 aliquots should be composited.” Time-proportional samples shall consist of a minimum of 12 aliquots composited over a 24-hour sample period. Aliquots must be collected at intervals representative of the entire sample period.

7. Upon review of the permit North Dakota Parks and Recreation Department determined that the project does not appear to affect state lands under their jurisdiction, nor does it appear to impact known rare species or significant ecological communities documented within or immediately adjacent to the project site.

Department Response: Thank you for your comment. The review conducted by North Dakota Parks and Recreation Department determined that the proposed permit would not affect resources under their jurisdiction. As such, no changes have been made to the draft permit regarding NDPRD’s comment.

Department Comment: During the public comment period the department corrected the following errors in the original SOB and permit documents:

1. SOB Page 3, Background Information:
 - Facility contacts updated to include Jean Butterfield and Justin Mecham
2. Permit Page 9, Permit Submittals Summary Table:
 - First Submittal Date for the Spill and Slug Prevention Control, and Countermeasure Plan (SPCCP) updated to May 31, 2021.
 - First Submittal Date for the Application Renewal updated to May 31, 2025.
3. Permit Page 10, Effluent Limitations and Monitoring Table:
 - Unit “mg/L” added to Monthly Max Average Effluent Limitations column

No further comments for Public Notice ND-2020-026.

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Comments for Public Notice ND-2021-027

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

Permit No: NDP026999
Effective Date: November 1, 2020
Modification Date: October 1, 2021
Expiration Date: October 31, 2025

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,

Marathon Dickinson Refinery
3815 116th Ave SW
Dickinson, ND 58601

is authorized to discharge wastewater from its refinery in Dickinson, North Dakota to the City of Dickinson's Publicly Owned Treatment Works provided all of the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,
October 31, 2025

Signed this _____ day of _____, _____.

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

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DEFINITIONS Pretreatment Permit - BP 2020.11.12

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

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

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

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

- a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
- c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - (1) Begun, or caused to begin as part of a continuous onsite construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

16. "**Passthrough**" means a discharge which exits the publicly owned treatment works into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
23. "**Significant industrial user**" means:
 - a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;
 - b. Any other industrial user that meets at least one of the following criteria:

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

OUTFALL DESCRIPTION

Outfall 001. Active. Final Pretreatment – Internal			
Latitude: 46.85861	Longitude: -102.8942	County: Stark	
Township: 139 N	Range: 79 W	Section: 15	QQ: AA
Description: The outfall is the control vault location where treated process wastewater and sanitary wastewater are collected prior to discharge to the POTW.			

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Quarterly	January 31, 2021
001P	Discharge Monitoring Report	1/permit cycle	October 31, 2021
All Discharge Points	Spill and Slug Control Plan	1/permit cycle	May 31, 2021
Application Renewal	NDPDES Application Renewal	1/permit cycle	May 31, 2025

SPECIAL CONDITIONS

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

The permittee must develop a Spill and Slug Discharge Control Plan, previously referred to as Spill and Slug Prevention, Control, and Countermeasure Plan (SPCCP), representing best management practices to prevent release of pollutants to the POTW and/or waters of the state and minimizing damages if a sludge discharge or spill occurs.

I. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

During the effective period of this permit; the permittee is authorized to discharge pollutants from the outfall(s) as specified to the City of Dickinson's Publicly Owned Treatment Works (POTW).

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

B. Effluent Limitations and Monitoring

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

Table 1 – Effluent limitations and monitoring requirements for Outfall 001A.

Parameter	Effluent Limitations			Monitoring Requirements	
	Daily Maximum		Monthly Max Average mg/L	Sample Type ^{1,2}	Sample Frequency
	mg/L	lbs/day			
Total Suspended Solids (TSS)	490	820	255	Composite	3/week
Biochemical Oxygen Demand (BOD ₅)	450	750	225	Composite	3/week
Chemical Oxygen Demand (COD)	1050	1765	500	Composite	3/week
Oil and Grease ^{a/}	100	*	Report*	Grab	3/week
Ammonia as N	56.5	95.0	25.5	Composite	3/week
Chlorides	*	878	*	Composite	3/week
Chromium Total	0.0571	43.6 g/day	Report*	Composite	3/week
Phenols Total ^{a/}	*	2.4	Report*	Grab	3/week
Phosphorus as P Total	23	39	12	Composite	3/week
Total Kjeldahl Nitrogen (TKN)	89.5	150	38	Composite	3/week
Nitrate-Nitrite as N	Report*	*	Report*	Composite	Semiannual
Sulfate as SO ₄	Report*	*	Report*	Grab	Semiannual
Sulfides (dissolved) ^{a/}	Report*	*	Report*	Grab	3/week
Sulfite as SO ₃	Report*	*	Report*	Grab	Semiannual
Aluminum Total	Report*	*	Report*	Composite	Semiannual
Barium Total	Report*	*	Report*	Composite	Semiannual
Boron Total	Report*	*	Report*	Composite	Semiannual
Cobalt Total	Report*	*	Report*	Composite	Semiannual
Iron Total	Report*	*	Report*	Composite	Semiannual
Magnesium Total	Report*	*	Report*	Composite	Semiannual
Molybdenum Total	Report*	*	Report*	Composite	Semiannual
Manganese Total	Report*	*	Report*	Composite	Semiannual

(Parameter)	(Effluent Limitations)			(Monitoring Requirements)	
	(Daily Maximum)		(Monthly Max Average mg/L)	(Sample Type ^{1,2})	(Sample Frequency)
	(mg/L)	(lbs/day)			
Tin Total	Report*	*	Report*	Composite	Semiannual
Titanium Total	Report*	*	Report*	Composite	Semiannual
Total Days Discharging	Report*			Calculated	Quarterly
Total Flow, MG	Report*			Calculated (Meter)	Quarterly
Process Flow, MGD	Report Max Daily Value		Report Max Monthly Average	Calculated (Meter)	Daily
pH ³	Between 5.0 to 12.5 S.U. at all times			Instantaneous	Continuous
Temperature ⁴	< 40 °C (104 °F) at all times			Instantaneous	Continuous

* This item for the stated parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving POTW.

¹Composite shall be time-proportional sample with a minimum of 12 aliquots composited over a 24-hour sample period. Aliquots must be collected at intervals representative of the entire sample period.

² Grab samples must be representative of the process wastestream and shall be a single, discrete sample collected over a period not exceeding 15 minutes.

³ The pH, an instantaneous limitation, shall be between 5.0 and 12.5 S.U. The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances. Individual pH readings shall be recorded no less than once every 1 (one) minute during periods of discharge; all excursions measured within this 1-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 1-minute period thereafter in which one or more excursions have been measured.

⁴ Temperature, an instantaneous limitation, shall be less than 104°F (< 40°C). The permittee is required to report maximum temperature and the number of temperature exceedances. Individual temperature readings shall be recorded no less than once every 1 (one) minute during periods of discharge; all excursions measured within this 1-minute period shall be reported as a single exceedance. An additional temperature exceedance shall be noted for each 1-minute period thereafter in which one or more excursions have been measured.

^{a/} Grab samples must be used for oil and grease, total phenols, and sulfides. A minimum of one (1) grab sample over a 24-hour sample period shall be taken for each parameter. Multiple samples for oil and grease shall be composited in the laboratory. Multiple samples for total phenols and sulfides shall each be composited in the laboratory or in the field.

^{b/} The department has determined that, based on Best Professional Judgement, continuous pH monitoring consisting of recordings no less than once every 1 (one) minute during discharge is representative of the facility's process wastestream.

Table 2– Effluent limitations and monitoring requirements for Outfall 001P. Parameters listed under 40 CFR 414.111.

Parameter	Daily Maximum	Monthly Max Average	Sample Type ^{1, 2, 3}	Sample Frequency ^{a/}
	lbs/day	lbs/day		
Acenaphthene	0.13	0.05	Composite	1/permit cycle
Anthracene	0.13	0.05	Composite	1/permit cycle
Benzene	0.36	0.15	Composite	1/permit cycle
Bis(2-ethylhexyl) phthalate	0.69	0.26	Composite	1/permit cycle
Carbon Tetrachloride	1.02	0.38	Composite	1/permit cycle
Chlorobenzene	1.02	0.38	Composite	1/permit cycle
Chloroethane	0.79	0.30	Composite	1/permit cycle
Chloroform	0.87	0.30	Composite	1/permit cycle
Di-n-butyl phthalate	0.12	0.05	Composite	1/permit cycle
1,2-Dichlorobenzene	2.14	0.53	Composite	1/permit cycle
1,3-Dichlorobenzene	1.02	0.38	Composite	1/permit cycle
1,4-Dichlorobenzene	1.02	0.38	Composite	1/permit cycle
1,1-Dichloroethane	0.16	0.06	Composite	1/permit cycle
1,2-Dichloroethane	1.55	0.48	Composite	1/permit cycle
1,1-Dichloroethylene	0.16	0.06	Composite	1/permit cycle
1,2-trans-Dichloroethylene	0.18	0.07	Composite	1/permit cycle
1,2-Dichloropropane	2.14	0.53	Composite	1/permit cycle
1,3-Dichloropropylene	2.14	0.53	Composite	1/permit cycle
Diethyl phthalate	0.30	0.12	Composite	1/permit cycle
Dimethyl phthalate	0.13	0.05	Composite	1/permit cycle
4,6-Dinitro-o-cresol	0.75	0.21	Composite	1/permit cycle

(Parameter)	(Daily Maximum)	(Monthly Max Average)	(Sample Type ^{1, 2, 3})	(Sample Frequency ^{a/})
	lbs/day	(lbs/day)		
Ethylbenzene	1.02	0.38	Composite	1/permit cycle
Fluoranthene	0.15	0.06	Composite	1/permit cycle
Fluorene	0.13	0.05	Composite	1/permit cycle
Hexachlorobenzene	2.14	0.53	Composite	1/permit cycle
Hexachlorobutadiene	1.02	0.38	Composite	1/permit cycle
Hexachloroethane	2.14	0.53	Composite	1/permit cycle
Methyl Chloride	0.79	0.30	Composite	1/permit cycle
Methylene Chloride	0.46	0.10	Composite	1/permit cycle
Naphthalene	0.13	0.05	Composite	1/permit cycle
Nitrobenzene	17.23	6.02	Composite	1/permit cycle
2-Nitrophenol	0.62	0.17	Composite	1/permit cycle
4-Nitrophenol	1.55	0.44	Composite	1/permit cycle
Phenanthrene	0.13	0.05	Composite	1/permit cycle
Pyrene	0.13	0.05	Composite	1/permit cycle
Tetrachloroethylene	0.44	0.14	Composite	1/permit cycle
Toluene	0.20	0.08	Composite	1/permit cycle
Total Cyanide ^{b/}	3.23	1.13	Grab	1/permit cycle
Total Lead	1.86	0.86	Composite	1/permit cycle
Total Zinc	7.03	2.83	Composite	1/permit cycle
1,2,4-Trichlorobenzene	2.14	0.53	Composite	1/permit cycle
1,1,1-Trichloroethane	0.16	0.06	Composite	1/permit cycle
1,1,2-Trichloroethane	0.34	0.09	Composite	1/permit cycle
Trichloroethylene	0.19	0.07	Composite	1/permit cycle
Vinyl Chloride	0.46	0.26	Composite	1/permit cycle

¹Composite shall be time-proportional sample with a minimum of 12 aliquots composited over a 24-hour sample period. Aliquots must be collected at intervals representative of the entire sample period.

² Grab samples must be representative of the process wastestream and shall be a single, discrete sample collected over a period not exceeding 15 minutes. Where multiple grabs are collected, samples must be collected at intervals representative of a 24-hour sample period.

³ Grab samples must be used for total cyanide and volatile organic compounds (VOCs). A minimum of four (4) grab samples over a 24-hour sample period must be collected for cyanide and each VOC. VOC samples shall be composited in the laboratory. Cyanide samples shall be composited in the laboratory or in the field.

^{a/} Parameters listed under 40 CFR 414.111 shall be monitored 1/permit cycle within the first twelve (12) months of permit issuance date.

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.06.07

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

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

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

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

B. Test Procedures

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

C. Recording of Results

Records of monitoring information shall include:

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

5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

D. Additional Monitoring

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

E. Reporting of Monitoring Results

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

4. Employee turnover (3-month periods only), or
5. Short duration permits (upon approval of the department)

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

ND Department of Environmental Quality
Division of Water Quality
918 East Divide Avenue
Bismarck ND 58501-1947

F. Records Retention

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

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Proper Operation and Maintenance

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

C. Planned Changes

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

Conditions; or

- 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.
3. If monitoring performed by the permittee indicates noncompliance, the permittee must repeat the sampling and analysis for the pollutant in violation and report the results of the resampling within 30 days of becoming aware of the original violation to the department as outlined in Section II(E) of this permit. The resampling is required by 40 CFR 403.12(g)(2).

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

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

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, 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. Notice of Potential Problems, including slug loading. The permittee shall notify the POTW and the department immediately of all discharges that could cause

problems to the POTW, including any slug loadings as defined in 40 CFR 403.5(b).

- b. 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.
 - c. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under F. 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 F. Twenty-four Hour Notice of Noncompliance Reporting and
4. The permittee complied with any remedial measures required under I. 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.

IV. GENERAL PROVISIONS

A. Inspection and Entry

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

B. Availability of Reports

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

C. Transfers

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder 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.

V. PROHIBITED DISCHARGES

A. General Prohibition

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

B. Specific Prohibitions

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

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

C. Dilution Prohibition

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