

**Please arrange to have the following public notice(s) printed in the legal column of the designated newspaper(s) as close to 5/29/2018 as possible.**

The Affidavit of Publication and billing notice should be sent to: North Dakota Department of Health, Judicial Wing, Division of Accounting, 600 East Boulevard Ave, Bismarck ND 58505.

Name of the Newspaper: The Forum

**North Dakota Department of Health Public Notice  
Issue of an NDPDES Permit**

Public Notice Date: 5/29/2018

**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-2018-016  
Application Date: 4/30/2018, Application Number: NDP026743  
Applicant Name: Northern Plains Finishing  
Mailing Address: 15514 37th St. SE, Casselton, ND 58012  
Telephone Number: 701.282.6465  
Proposed Permit Expiration Date: 6/30/2023

**Facility Description**

Northern Plains Finishing (NPF) is located at 15514 37th Street SE, Casselton, ND. NPF powder coats prefabricated metal parts for clients associated with the agricultural and construction sector. The facility operates a regulated metal finishing operation that requires a permit issued under the North Dakota Pollution Discharge Elimination System (NDPDES) program. This permit is for only process wastewater discharged after treatment from the metal finishing operation to Casselton's Publicly Owned Treatment Works (POTW). This discharge is a new source subject to 40 CFR Part 433.17. The concentration of the process-wastewater pollutants from the onsite pretreatment system shall not exceed the values set forth in the above referenced subpart. Furthermore, except 40 CFR 403.7, the permitted discharge must comply with 40 CFR Part 403.

**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 Health, Div. of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by June 29, 2018 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  
NDP026743**

**Northern Plains Finishing –  
Issuance – Industrial Pretreatment (Categorical Industrial User – Metal Finisher)**

**April 2018**

**INTRODUCTION**

The Federal Clean Water Act (CWA, 1982, and later amendments in 1977, 1981, and 1987) established water quality goals for the navigable (surface) waters of the United States. A mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the U.S. Environmental Protection Agency (EPA) has oversight authority. In 1975, the State of North Dakota was delegated primacy of the NPDES program by the EPA. The North Dakota Department of Health (department) has been designated the state water pollution control agency for all purposes of the Federal Water Pollution Control Act as amended [33 U.S.C. 1251, et seq], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of that act and similar federal acts. The department's authority and obligations for the wastewater discharge permit program is in the NDAC 33-16 (North Dakota Administrative Code), which was promulgated pursuant to NDCC chapter 61-28 (North Dakota Century Code). The department uses the North Dakota Pollutant Discharge Elimination System (NDPDES) as its permitting title.

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 used for issuing NDPDES permits (NDAC chapter 33-16-01),
- Pretreatment regulations (NDAC chapter 33-16-01.1).
- 40 Code of Federal Regulations Section 403 and 433.17

These rules require any treatment facility operator to obtain a NDPDES permit before discharging wastewater to waters of the state. These rules include commercial or industrial wastewater discharges to sewage 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.

This statement of basis is a companion document to the NDPDES permit NDP026743. The department proposes to issue this permit that will allow a treated process wastewater to discharge to the City of Casselton's Publicly Owned Treatment Works (POTW). This statement of basis explains the nature of the proposed discharge, the department's decisions of limiting the pollutants in the wastewater, and the regulatory and technical basis for those decisions.

According to the NDAC, section 33-16-01-08, the NDPDES permit program, the department must prepare a draft permit and accompanying statement of basis and make it available for a thirty-day (30) public review period (NDAC chapter 33-16-01-07). The department must also publish an announcement (public notice) informing people where they can obtain the draft permit and send their comments on the draft. For more details on preparing and filing

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 2 of 16

comments about these documents, please see **Appendix A – Public Involvement**. After the Public Comment Period ends, the department may make changes to the draft permit. The department will summarize the responses to comments and any changes to the permit in **Appendix C – Response to Comments**.

DRAFT

**Table of Contents**

**INTRODUCTION** ..... 1

**DESCRIPTION OF OPERATIONS** ..... 4

**Permitted Outfall Description**..... 4

**WASTEWATER CHARACTERIZATION** ..... 4

**PERMIT STATUS** ..... 5

**SUMMARY OF COMPLIANCE WITH PRETREATMENT REGULATIONS AND CATEGORICAL LIMITS** ..... 5

**PROPOSED PERMIT LIMITATIONS**..... 6

**REGULATORY BASIS** ..... 6

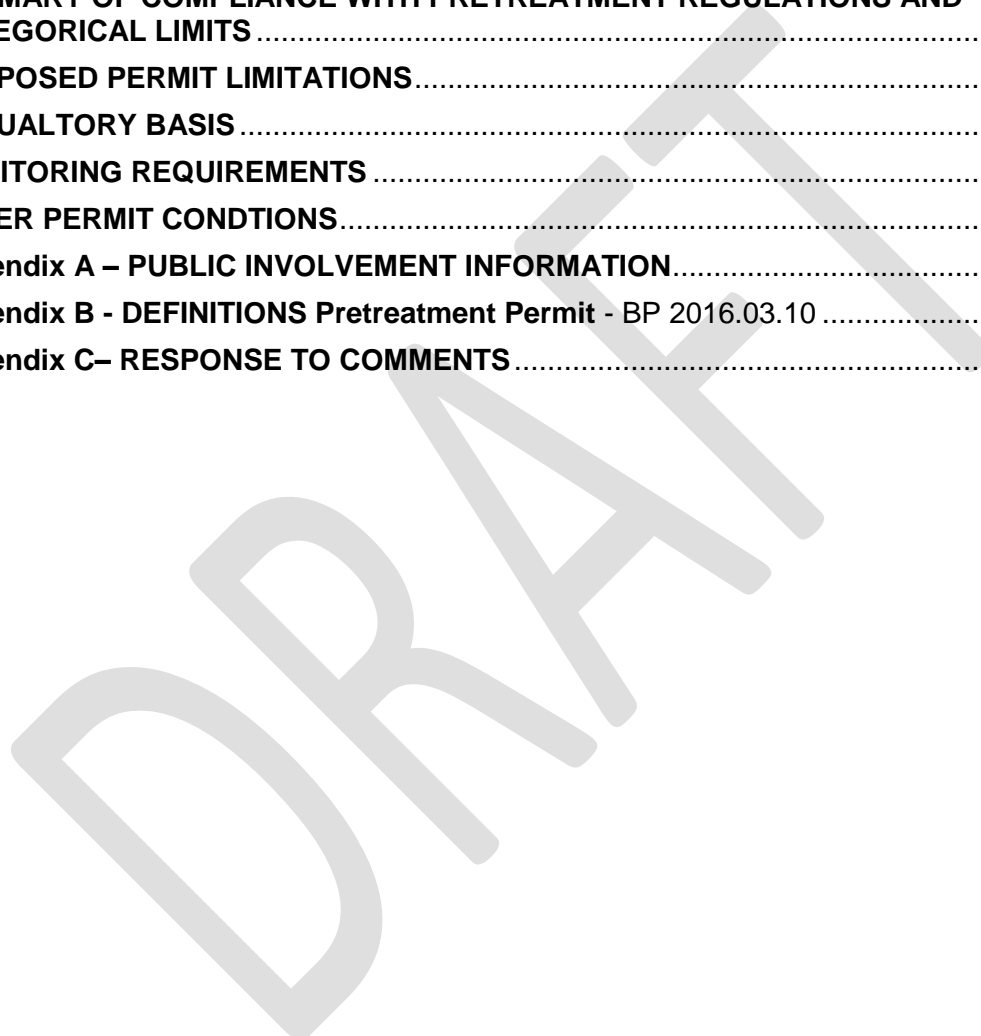
**MONITORING REQUIREMENTS** ..... 7

**OTHER PERMIT CONDITIONS**..... 9

**Appendix A – PUBLIC INVOLVEMENT INFORMATION**..... 12

**Appendix B - DEFINITIONS Pretreatment Permit - BP 2016.03.10** ..... 13

**Appendix C– RESPONSE TO COMMENTS** ..... 16



STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 4 of 16

<b>Table 1 - GENERAL FACILITY INFORMATION</b>	
<b>Applicant:</b>	<b>Northern Plains Finishing (NPF)</b>
<b>Address:</b>	<b>15514 37<sup>th</sup> St SE Casselton, ND 58108</b>
<b>Facility Type:</b>	<b>Categorical Industrial User – New Source Metal Finisher (433.17)</b>
<b>Facility Discharge Location:</b>	<b>Internal from pretreatment system</b>
<b>Receiving POTW:</b>	<b>City of Casselton</b>
<b>Standard Industrial Classification</b>	<b>3728</b>
<b>Facility Contact:</b>	<b>Steve Melicher – Operations Manager</b>
<b>Responsible Official:</b>	<b>Telephone #: 701.282.6465</b>

### DESCRIPTION OF OPERATIONS

Northern Plains Finishing (NPF) powder coats prefabricated metal components for various clients:

- metal preparation prior to coating using nanotechnology to clean and degrease products prior to powder coating.
- packing finished metal components for shipment to customers.

#### Pretreatment Processes

NPF discharges wastewater from the metal prep wash booth to a series of holding tanks. Water for the wash booth is generated from a reverse osmosis (RO) filtration system. Solids settle, and pH is adjusted as necessary prior to discharge to the POTW. Semiannual sampling of process wastewater from the holding tank verifies compliance with all applicable pretreatment standards for new sources. All solids and RO waste products are collected and disposed of by a contractor with documentation.

#### Production Rate

The wash bay uses a nanotechnology metal preparation process that operates during normal working hours. Production fluctuates in accordance with customer orders.

### Permitted Outfall Description

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

**Outfall 001A – Internal – Active:** This discharge of process wastewater originates from storage tanks that receive regulated process wastewater from the metal washing operation.

### WASTEWATER CHARACTERIZATION

The permittee requires wastewater monitoring from its metal wash process – a categorical industrial user designation covered under 40 CFR Part 433.17.

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 5 of 16

This permit covers the discharge of only the process wastewater after treatment from the metal finishing operation to Casselton’s POTW. This discharge is a new source subject to the 40 CFR Part 433.17 pretreatment standards. The concentration of the process-wastewater pollutants from the treatment system shall not exceed the values set forth in the above referenced subpart. Furthermore, except 40 CFR 403.7, the permitted discharge must comply with 40 CFR Part 403.

**PERMIT STATUS**

This facility is currently in a categorical permit-by-rule status granted by the department under 40 CFR 433.17.

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

The facility currently has not submitted a toxic organics management plan to the department and samples for Total Toxic Organics (TTO). TTO analyses are expected to continue during this permit cycle.

NPF has had no compliance issues with any pretreatment standards since starting operations in 2014.

**Table 2 - Historical Wastewater Monitoring Data**

Pollutant or pollutant property (mg/l)	Frequency	Sample Type	2014-2017 max for any 1 day	2014-2017 monthly average max
<b>Total 6 month Facility Flow, MG</b>	1/6 month	Calculated from Water Meter	NA	
<b>Process Flow, MGD</b>	Daily	Meter Estimate	NA	
<b>Cadmium (Total)</b>	Semiannually	Composite	< 0.001 mg/l	< 0.001 mg/l
<b>Chromium (Total)</b>	Semiannually	Composite	< 0.05 mg/l	< 0.05 mg/l
<b>Copper (Total)</b>	Semiannually	Composite	0.39 mg/l	0.39 mg/l
<b>Lead (Total)</b>	Semiannually	Composite	< 0.001 mg/l	< 0.001 mg/l
<b>Nickel (Total)</b>	Semiannually	Composite	0.05 mg/l	0.05 mg/l
<b>Silver (Total)</b>	Semiannually	Composite	0.0013 mg/l	0.0013 mg/l
<b>Zinc (Total)</b>	Semiannually	Composite	0.07 mg/l	0.07 mg/l
<b>Cyanide (Total)</b>	Semiannually	4 Grabs	< 0.02 mg/l <sup>c</sup>	< 0.02 mg/l
<b>pH</b>	Semiannually	Grab	7.19 – 9.16 s.u.	
<b>Total Toxic Organics (TTO)</b>	Semiannually	4 Grabs	0.013 mg/l	NA

**PROPOSED PERMIT LIMITATIONS**

The effluent limitations become effective on July 1, 2018 – the permit effective date. The effluent limitations are described below.

**Table 3 – Pretreatment Standards for New Sources – 40 CFR 433.17**

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Milligrams per liter (mg/l)	
<b>Total Facility Flow, gpd</b>	NA	NA
<b>Process Flow, gpd</b>	NA	NA
<b>pH, s.u.</b>	5.0 - 12.5 at all times	
<b>Cadmium (total)</b>	0.11	0.07
<b>Chromium (total)</b>	2.77	1.71
<b>Copper (total)</b>	3.38	2.07
<b>Lead (total)</b>	0.69	0.43
<b>Nickel (total)</b>	3.98	2.38
<b>Silver (total)</b>	0.43	0.24
<b>Zinc (total)</b>	2.61	1.48
<b>Cyanide (total)</b>	1.20	0.65
<b>TTO (total)</b>	2.13	.....

Samples and measurements shall be representative of the nature of the regulated wastewater discharge. All samples shall be taken before the process generated wastewater effluent either joins or is diluted by any other dilution stream, water, or substance. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the Clean Water Act and codified in 40 CFR 136.

The permittee is also responsible to collect waste from the pretreatment system for disposal off site by a third party and to maintain the collection records onsite for review. These waste products shall not be disposed of by wash-down processes or into a solid waste landfill.

The results of the above discharge monitoring shall be submitted to the department semiannually (monitoring periods: January through June and July through December) on discharge monitoring reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported on the DMR form submitted to the department. All reports must be postmarked by the last day of the month following the end of each reporting period. Duplicate signed paper copies of these reports, and all other reports required herein, shall be submitted to the department at the following address:

The Electronic Reporting submitting the periodic electronically shall be followed ERIS.	ND Department of Health Division of Water Quality 918 East Divide Ave Bismarck ND 58501-1947	Information System (ERIS) for compliance reports once the permittee enrolls into
---	---	--

**REGUALTORY BASIS**



## STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 7 of 16

State regulations require limitations set forth in a wastewater discharge permit must be based on the technology available to treat the pollutants (technology based) or be based on the effects of the pollutants to the POTW (local limits). Wastewater must be treated using all known, available, and reasonable treatment (AKART) and not interfere with the operation of the POTW.

Technology based and local limits are described in more detail below:

### **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. Federal categorical limitations for this facility are found under 40 CFR 433.17.

### **Local Limits**

The city of Casselton does not have an approved pretreatment program. Pollutant loading from the 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. At this time, the department has not required the city to develop a pretreatment program.

## **MONITORING REQUIREMENTS**

### **Discharge Authorization**

During the effective period of this permit, the permittee is authorized to discharge pollutants from the described outfall to the following: **Casselton POTW.**

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

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

The minimum monitoring schedule is detailed below in Table 5. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, pollutant significance, and monitoring cost.

<b>Table 5 – Monitoring Requirements</b>		
<b>Pollutant or pollutant property (mg/l)</b>	<b>Sample Type</b>	<b>Frequency</b>
<b>Total Facility Flow,</b>	Water Meter	Semiannually
<b>Process Flow, gpd</b>	Meter Estimate	Daily
<b>Process Flow, total</b>	Calculated	Semiannually
<b>pH (s.u.)</b>	Meter	Semiannually
<b>Cadmium (total)</b>	Composite	Semiannually
<b>Chromium (total)</b>	Composite	Semiannually
<b>Copper (total)</b>	Composite	Semiannually
<b>Lead (total)</b>	Composite	Semiannually
<b>Nickel (total)</b>	Composite	Semiannually
<b>Silver (total)</b>	Composite	Semiannually
<b>Zinc (total)</b>	Composite	Semiannually
<b>Cyanide (total)</b>	Composite	Semiannually
<b>TTO (total)</b>	Composite	Semiannually

Composite samples must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of four (4) separate grab samples taken at two (2) hour intervals and proportioned as to flow.

If the permittee's production processes should change, expand, or chemical additives are changed, the department must be notified and reserves the right to review and adjust the required monitoring.

#### **Frequency of Monitoring**

The department recommends continuing with a semiannual monitoring frequency.

#### **Monitoring Parameters**

Northern Plains Finishing, as a federally listed categorical industry (Metal Finishing Point Source Category), is required to limit the concentration of pollutants or pollutant properties in its process wastewater effluent. These pollutants are listed in **40 CFR 433.17 – Pretreatment Standards for New Sources (PSNS)**. Flow volumes and pH will also be monitored to determine total pollutant loading on the POTW.

Total Toxic Organics (TTO) is the summation of concentrations of all toxic organics present in the wastewater at levels greater than 0.01 mg/l each. The complete TTO list can be found in 40 CFR 433.11 (e). This monitoring requirement may be waived under the following circumstances given by 40 CFR 433.12 – Monitoring Requirements:

- (a) In lieu of requiring TTO monitoring for, the permitting authority (or, in the case of indirect dischargers, the control authority) may allow dischargers to make the following certification statement:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for TTO, I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 9 of 16

monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the control authority.” For indirect dischargers, the statement is to be included as a comment to the periodic reports required by 40 CFR 403.12(e). If monitoring is necessary to measure compliance with the TTO standard, the industrial discharger need analyze for only those pollutants which would reasonably be expected to be present.

- (b) In requesting the certification alternative, a discharger shall submit a toxic organics management plan (TOMP) that specifies to the satisfaction of the permitting authority (or, in the case of indirect dischargers, the control authority) the toxic organic compounds used; the method of disposal used instead of dumping, such as reclamation, contract hauling, or incineration; and procedures for ensuring that toxic organics do not routinely spill or leak into the wastewater. For direct dischargers, the permitting authority shall incorporate the plan as a provision of the permit.

Northern Plains Finishing has not submitted a TOMP to the department. The permittee must continue to sample for TTO to meet the conditions of the NDPDES permit.

## **OTHER PERMIT CONDITIONS**

### **Reporting and Recordkeeping**

These conditions are based on the authority to specify any appropriate reporting and recordkeeping requirements to prevent and control waste discharges (40 CFR 403.12(e), (g), and (h)).

### **Operations and Maintenance**

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

An 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 responsible position of the person responsible for the sampling and people to notify in event of failure.

### **Dilution Prohibited**

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

### **Spill and Slug Discharge Prevention, Control, and Countermeasure Plan**

The permittee stores a quantity of chemicals that have the potential to cause water pollution if released. Additionally, the department has determined that the permittee has the potential for a slug discharge or a spill that could adversely affect the POTW. Therefore, a spill and slug discharge prevention, control, and countermeasure plan is required (40 CFR 403.8(f)).

## STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 10 of 16

The department has the authority to require the permittee to develop best management practices to prevent this release under section 402(a)(1) or the Federal Water Pollution Control Act.

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. An updated plan is required if a plan has been developed in the past.

### **General Prohibitions**

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

### **Specific Prohibitions**

In addition to the general prohibitions, the following pollutants shall not be introduced into a POTW:

- Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade;
- Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 s.u., unless the POTW is specifically designed to accommodate such discharges;
- Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference;
- Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.
- 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 Treatment Plant exceeds 40 °C (104 °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.
- Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- 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;
- Any trucked or hauled pollutants, except at discharge points designated by the POTW.

### **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.

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 11 of 16

**Recommendation for Permit Issuance**

This proposed permit meets all statutory requirements for authorizing a wastewater discharge, including those limitations and conditions believed necessary to control toxics. The department recommends this permit be issued for five (5) years and shall expire on June 30, 2023.

DRAFT

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 12 of 16

**Appendix A – PUBLIC INVOLVEMENT INFORMATION**

The department proposes to issue an industrial user wastewater discharge permit to the Northern Plains Finishing. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the basis for requiring a permit.

The department placed a Public Notice of Draft on **May 28, 2018** in the Fargo Forum 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 Health  
Division of Water Quality  
918 East Divide Avenue, 4<sup>th</sup> Floor  
Bismarck, ND 58501-1947

The primary author of this permit and statement of basis is Jeff Roerick.

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 13 of 16

**Appendix B - DEFINITIONS Pretreatment Permit - BP 2016.03.10**

1. "**Approval Authority**" means the department.
2. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
3. "**Categorical industrial user**" or "CIU" means an industrial user that is subject to a pretreatment standard for an industry category.
4. "**Combined Metals**" means the total of gold, platinum, and palladium.
5. "**Control authority**" means either:
  - a. The POTW, if the POTW which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33-16-01.1-06 and 33-16-01.1-08, or
  - b. The department, if the POTW which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33-16-01.1-06 and 33-16-01.1-08.
6. "**Director**" means the department.
7. "**Indirect discharge**" means the introduction of pollutants into a POTW from any non-domestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.
8. "**Industrial user**" or "**user**" means a source of indirect discharge.
9. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
  - a. Inhibits or disrupts the POTW processes or operations, or its sludge processes, use or disposal; and
  - b. Causes a violation of any requirement of the POTW's NDPDES 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.
10. "**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; or

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 14 of 16

- (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.
  - 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 undertaken any of the following:
    - (1) Begun, or caused to begin as part of a continuous onsite construction program,
      - i. Any placement, assembly, or installation of facilities or equipment; or
      - ii. 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.
11. "**Pass through**" means an indirect discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with any other discharges, causes a violation of the POTW's NDPDES permit (including an increase in the magnitude or duration of a violation).
12. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.
13. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
14. "**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 33-16-01.1-02.
15. "**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



STATEMENT OF BASIS FOR NDPDES PERMIT NDP026743

Northern Plains Finishing

EXPIRATION DATE – June 30, 2023

Page 15 of 16

plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.

16. "**Publicly owned treatment works treatment plant**" or "POTW treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
17. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders them inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. It does not mean economic loss caused by delays in production.
18. "**Significant industrial user**" or "SIU" means:
  - a. All industrial users subject to categorical pretreatment standards under sections 33-16-01.1-04 and 33-16-01-31; and
  - b. Any other industrial user that meets at least one of the following criteria:
    - (1) Discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW, 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 POTW 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 POTW's operation or for violating any pretreatment standard or requirement.
  - c. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the POTW's 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.
19. "**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.

**Any comments will be placed here.**

DRAFT

Draft

Permit No: NDP026743  
Effective Date: July 1, 2018  
Expiration Date: June 30, 2023

AUTHORIZATION TO DISCHARGE UNDER THE  
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

Northern Plains Finishing  
15514 37<sup>th</sup> Street South East  
Casselton, ND 58012

is authorized to discharge wastewater in accordance with the special and general conditions which follow in this permit.

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

June 30, 2023

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

---

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

BP 2014.06.12

## TABLE OF CONTENTS

<b>DEFINITIONS Pretreatment Permit</b> .....	<b>3</b>
<b>PERMIT SUBMITTALS SUMMARY</b> .....	<b>6</b>
<b>LIMITATIONS AND MONITORING REQUIREMENTS</b> .....	<b>7</b>
A. Discharge Authorization.....	7
B. Effluent Limitations and Monitoring.....	7
<b>MONITORING, RECORDING, AND REPORTING REQUIREMENTS</b> .....	<b>8</b>
A. Representative Sampling (Routine and Non-Routine Discharges).....	8
B. Test Procedures.....	8
C. Recording of Results.....	8
D. Additional Monitoring.....	9
E. Reporting of Monitoring Results.....	9
F. Records Retention.....	9
<b>COMPLIANCE RESPONSIBILITIES</b> .....	<b>9</b>
A. Duty to Comply.....	9
B. Proper Operation and Maintenance.....	9
C. Planned Changes.....	9
D. Duty to Provide Information.....	9
E. Signatory Requirements.....	10
G. Twenty-four Hour Notice of Noncompliance Reporting.....	11
H. Noncompliance Resampling.....	11
I. Hazardous Waste Discharge Notification.....	11
J. Bypass of Treatment Facilities.....	11
K. Upset Conditions.....	12
L. Duty to Mitigate.....	12
M. Best Management Practices/Pollution Prevention Program.....	13
N. Duty to Reapply.....	13
<b>GENERAL PROVISIONS</b> .....	<b>13</b>
A. Inspection and Entry.....	13
B. Availability of Reports.....	13
C. Transfers.....	13
D. New Limitations or Prohibitions.....	14
E. Permit Actions.....	14
F. Need to Halt or Reduce Activity Not a Defense.....	14
G. State Laws.....	14
H. Oil and Hazardous Substance Liability.....	14
I. Property Rights.....	14
J. Severability.....	14
K. Applicable Civil and Criminal Penalties.....	14
<b>PROHIBITED DISCHARGES</b> .....	<b>14</b>
<b>DILUTION PROHIBITED</b> .....	<b>15</b>
<b>SPILL AND SLUG DISCHARGE PREVENTION, CONTROL AND COUNTERMEASURE</b> .....	<b>15</b>

## DEFINITIONS Pretreatment Permit

1. "**Approval Authority**" means the department.
2. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
3. "**Categorical industrial user**" or "CIU" means an industrial user that is subject to a pretreatment standard for an industry category.
4. "**Control authority**" means either:
  - a. The POTW, if the POTW which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33-16-01.1-06 and 33-16-01.1-08, or
  - b. The department, if the POTW which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33-16-01.1-06 and 33-16-01.1-08.
5. "**Director**" means the department.
6. "**Indirect discharge**" means the introduction of pollutants into a POTW from any non-domestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.
7. "**Industrial user**" or "**user**" means a source of indirect discharge.
8. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
  - a. inhibits or disrupts the POTW processes or operations, or its sludge processes, use or disposal; and
  - b. causes a violation of any requirement of the POTW's NDPDES 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.
9. "**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; or
    - (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.
  - a. 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.

b. Construction of a new source as defined under this subsection has commenced if the owner or operator has undertaken any of the following:

(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.

10. "**Pass through**" means an indirect discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with any other discharges, causes a violation of the POTW's NDPDES permit (including an increase in the magnitude or duration of a violation).

11. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

12. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

13. "**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 33-16-01.1-02.

14. "**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.

15. "**Publicly owned treatment works treatment plant**" or "POTW treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

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

17. "**Significant industrial user**" or "SIU" means:

a. All industrial users subject to categorical pretreatment standards under sections 33-16-01.1-04 and 33-16-01-31; and

- b. Any other industrial user that meets at least one of the following criteria:
- (1) Discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW, 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 POTW 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 POTW's operation or for violating any pretreatment standard or requirement.
- c. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the POTW's 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.

18. "**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.

**Permitted Outfall Description**

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

**Outfall 001 – Internal - Active.** Outfall from the pretreatment system that receives process wastewater from the metal finishing operations and discharges to the City of Casselton’s Publicly Owned Treatment Works (POTW).

**PERMIT SUBMITTALS SUMMARY**

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Semiannually	January 31, 2019
001A	Spill and Slug Prevention, Control, and Countermeasure Plan (SPCCP) Update <sup>1</sup>	Permit reapplication	January 2023
Application Renewal	NDPDES Application Renewal	1/permit cycle	January 1, 2023

1. Conditional - if the permittee stores chemicals with the potential to cause water pollution if unintentionally released, the department requires the permittee to develop and submit a slug discharge prevention, control, and countermeasure plan.



## LIMITATIONS AND MONITORING REQUIREMENTS

### A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from Outfall 001 as specified to the **City of Casselton's POTW**.

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

### B. Effluent Limitations and Monitoring

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

<b>40 CFR 433.17 Metal Finishing — Pretreatment Standard New Source (PSNS).</b>				
<b>Pollutant or pollutant property</b>	<b>Sample Type<sup>a</sup></b>	<b>Sample Frequency</b>	<b>Max for any 1 day</b>	<b>Monthly average shall not exceed</b>
			<b>Milligrams per liter (mg/l)</b>	
<b>Total Facility Flow,</b>	Water Meter	Semiannually	NA	NA
<b>Process Flow, gpd</b>	Meter Estimate	Daily	NA	NA
<b>Process Flow, total</b>	Calculated	Semiannually	NA	NA
<b>pH, s.u.</b>	Grab	Semiannually	5.0 - 12.5 at all times	
<b>Cadmium (Total)</b>	Composite	Semiannually	0.11	0.07
<b>Chromium (total)</b>	Composite	Semiannually	2.77	1.71
<b>Copper (total)</b>	Composite	Semiannually	3.38	2.07
<b>Lead (total)</b>	Composite	Semiannually	0.69	0.43
<b>Nickel (total)</b>	Composite	Semiannually	3.98	2.38
<b>Silver (total)</b>	Composite	Semiannually	0.43	0.24
<b>Zinc (total)</b>	Composite	Semiannually	2.61	1.48
<b>Cyanide (total)</b>	Composite	Semiannually	1.20	0.65
<b>TTO</b>	Composite	Semiannually	2.13	.....

- a. Samples must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of four (4) separate grab samples taken at two (2) hour intervals and proportioned as to flow.

## MONITORING, RECORDING, AND REPORTING REQUIREMENTS

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

All wastewater samples and measurements taken shall be representative of daily operations of the monitored wastewater 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 **Wastewater Effluent Limitations and Monitoring** requirements of this permit.

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 the Test Procedures section of this permit. The permittee must report all additional monitoring in accordance with the Additional Monitoring section of this permit.

### B. Test Procedures

The collection and transportation of all samples shall comply with the EPA preservation techniques and holding times. All laboratory tests shall be performed by a State 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 the Test Procedures section of this permit, shall be included on the Discharge Monitoring Report (DMR) submitted to the department.

**E. Reporting of Monitoring Results**

Monitoring results shall be summarized and reported on DMR forms. If no discharge occurs during a reporting period, "No Discharge" shall be reported on the DMR form submitted to the department. All reports must be postmarked by the last day of the month following the end of each reporting period. Duplicate signed paper copies of these reports, and all other reports required herein, shall be submitted to the department at the following address:

ND Department of Health  
Division of Water Quality  
918 East Divide Ave  
Bismarck ND 58501-1947

The Electronic Reporting Information System (ERIS) for submitting the periodic compliance reports electronically shall be followed once the permittee enrolls into ERIS.

**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.

**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 the City of Wahpeton shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the department as soon as possible.

**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.

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:

1. The authorization is made in writing by a person described above and submitted to the department; and
2. 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 the Signatory Requirements section of this permit 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 I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

## **F. Operation and Maintenance**

The permittee shall at all times be responsible for the proper operation and maintenance of any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.

### **Operations and Maintenance Manual**

The O&M Manual shall be reviewed by the permittee at least annually. Substantial changes or updates to the O&M Manual shall be submitted to the department whenever they are incorporated into the manual.

The approved O&M Manual shall be kept available at the permitted facility and all operators shall follow the instructions and procedures of this manual.

The O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in the event of wastewater system upset or failure.
2. Wastewater system maintenance procedures that contribute to the generation of process wastewater.
3. Any directions to maintenance staff when cleaning, or maintaining other equipment or performing other tasks which are necessary to protect the operation of the pretreatment system (e.g. defining maximum allowable discharge rate for draining a tank.)

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

The permittee shall report any noncompliance which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. 1) The City of Wahpeton public works department. The following occurrences of noncompliance shall be reported by telephone to the department at 701.328.5210 by the first workday (8:00 a.m.-5:00 p.m. Central time) following the day the permittee became aware of the circumstances:

1. Any unanticipated bypass (including slug discharges) that exceeds any effluent limitation in the permit under the Bypass of Treatment Facilities section of this permit;
2. Any upset which exceeds any effluent limitation in the permit under the Upset Conditions section of this permit; or
3. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.

A written submission shall also be provided within five (5) days of the time that the permittee became aware of the circumstances. The written submission shall contain:

1. A description of the noncompliance and its cause;
2. The period of noncompliance, including exact dates and times;
3. The estimated time noncompliance is expected to continue if it has not been corrected; and
4. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the addresses in the Reporting of Monitoring Results section of this permit. 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 DMR submittal. The report shall include the four items listed in this subsection.

### **H. Noncompliance Resampling**

If the permittee's sampling results indicate a violation of any daily maximum limitation for any of the pollutants listed in this permit, the permittee shall repeat the sampling and analysis for that parameter and submit the results of the repeat analysis to the address in the Reporting of Monitoring Results section of this permit, within 30 days after becoming aware of the violation.

- I. Hazardous Waste Discharge Notification** The permittee shall notify the POTW, the EPA Regional Waste Management Division Director, and the department in writing of any discharge into the POTW of any substance, which, if otherwise disposed of, would be a hazardous waste under N.D.A.C. 33-24-02. Such notification shall comply with the requirements of subsection 6 of N.D.A.C. 33-16-01.1-12.

### **J. Bypass of Treatment Facilities**

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.

Bypass exceeding limitations-notification requirements.

1. 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.
2. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under the Twenty-four Hour Notice of Noncompliance Reporting section of this permit.

Prohibition of Bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The permittee submitted notices as required under the 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.

**K. 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 the Twenty-four Hour Notice of Noncompliance Reporting section of this permit and
4. The permittee complied with any remedial measures required under the Duty to Mitigate section of this permit.

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

**L. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize and/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.

## **M. Best Management Practices/Pollution Prevention Program**

### Chemical Storage

Solid chemicals, chemical solutions, paints, solvents, acids, caustic solutions, and waste materials, (including used batteries) shall be stored in a manner which will prevent the inadvertent entry of these materials or products of these materials into waters of the state, including ground waters, and in a manner that will prevent spillage by overfilling, tipping, or rupture. In addition, the following best management practices (BMPs) shall be used:

1. All liquid products shall be stored on durable impervious surfaces and behind adequate berms.
2. Chemicals shall be stored and dispensed only in roofed and bermed areas to eliminate potential spills to waters of the state or contamination to stormwater runoff.
3. Any tank containing chemical solutions shall be located in a diked or no-outlet area that will prevent chemical loss to waters of the state or the sanitary sewer.
4. The permittee must contain all quenching, hydraulic, machining, and lubricating oils to prevent spills, or loss to any waters of the state.
5. Waste liquids shall be stored under cover, roofed structures, or in a closed vessel.
6. Incompatible or reactive materials shall be segregated and securely stored in separate containment areas that prevent mixing.
7. Concentrated waste or spilled chemicals shall be disposed of at a facility

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of pretreatment shall be disposed of in accordance with any applicable waste management regulations. The permittee must also prevent any pollutant from the process wastewater from entering any waters of the state or create a health hazard.

## **N. Duty to Reapply**

Any request to have this permit renewed shall be made 180 days prior to its expiration date.

## **GENERAL PROVISIONS**

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

The permittee shall allow representatives from the department, city, and/or EPA, 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, plumbed outfalls/drains to the city, to sample any wastewater 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, any statement of basis, and effluent data shall not be considered confidential.

### **C. Transfers**

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

**D. New Limitations or Prohibitions**

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

**E. Permit Actions**

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

**F. Need to Halt or Reduce Activity Not a Defense**

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

**G. State Laws**

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

**H. Oil and Hazardous Substance Liability**

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

**I. Property Rights**

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

**J. Severability**

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

**K. Applicable Civil and Criminal Penalties**

The department has the authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by any industrial user with pretreatment standards and requirements discharging wastewater to a POTW.

**PROHIBITED DISCHARGES**

**A. General Prohibitions**

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 a POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including wastestreams with a closed



cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 Code of Federal Regulations, part 261.21.

2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 or greater than 12.5, 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 and/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 treatment plant exceeds forty degrees Celsius (40°C) (104°F), unless the department, upon request of the POTW, approves alternate temperature limits.
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

#### **DILUTION PROHIBITED**

The permittee shall not dilute the wastewater discharge with stormwater or increase the use of potable water, process water, noncontact cooling water, or, in any way, attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with limitations contained in this permit.

#### **SPILL AND SLUG DISCHARGE PREVENTION, CONTROL AND COUNTERMEASURE**

It is required by the permittee to control slug discharges to the POTW. The permittee must develop a Spill and Slug Discharge Prevention and Control Plan that shall include the following:

1. A description of a reporting system to be used it 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;
5. A brief description of any unauthorized discharges that occurred during the 36-month period preceding the effective date of this permit and subsequent measures taken by the permittee to prevent or to reduce the possibility of further unauthorized discharges;

6. An implementation schedule including additional operator training and procurement and installation of equipment or facilities required to properly implement the plan; and,
7. In the event the permittee finds it necessary to de-scale its pretreatment system, the City of Casselton POTW shall be notified and the wastewater generated by the de-scaling operation shall be isolated until its chemical nature can be characterized. If the analysis reveals concentration levels of pollutants greater than the permit allows, the department shall be notified and alternative method(s) of disposal shall identified.

The current approved plan shall be maintained at the facility and be readily available to facility personnel. The permittee shall submit an update of the Spill and Slug Discharge Prevention, Control, and Countermeasure Plan, or a certification that it is current, with the permit-renewal application.

DRAFT