



REGION 2

NEW YORK, N.Y. 10007

August 8, 2024

VIA ELECTRONIC MAIL TO: Thomas.Blodgett@niagaracounty.com

Thomas W. Blodgett, P.E., Director
Niagara County Sewer District No. 1
7346 Liberty Drive
Niagara Falls, NY 14304

**Re: REQUEST FOR INFORMATION, Pursuant to Section 308 of the CWA
Docket No. CWA-IR-24-014
Niagara County Sewer District No. 1
SPDES Permit No. NY0027979
EPA Pretreatment Compliance Inspection – June 6, 2024 – June 7, 2024**

Dear Mr. Blodgett:

The purpose of this Request for Information (RFI) letter is to require you to submit information to the United States Environmental Protection Agency (EPA) regarding the Niagara County Sewer District No. 1 (District) located at 7346 Liberty Drive, Niagara Falls, New York.

Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, as well as pretreatment standards (Section 307 of the CWA), EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility/site and its related appurtenances.

On June 6, 2024, and June 7, 2024, EPA conducted a Pretreatment Compliance Inspection (PCI) of the District's Industrial Pretreatment Program. The purpose of the PCI was to evaluate the District's compliance with the General Pretreatment Regulations for Existing and New Sources of Pollution at 40 C.F.R. Part 403. Enclosed is a copy of EPA's PCI report detailing the findings and observations of the PCI, including Potential Non-Compliance Items and Areas of Concern.

REQUEST FOR INFORMATION

The District is hereby required, pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to submit a written response describing how the District has addressed or will address the **Potential Non-**

Compliance Items and **Areas of Concern** in the enclosed PCI report, including a corrective action plan and timeframe for addressing the **Potential Non-Compliance Items** no later than thirty (30) calendar days of receipt of this RFI.

CERTIFICATION

Any documents to be submitted by you must be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 C.F.R. § 122.22), and shall include 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 gathered and evaluated 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 submitted false information, including the possibility of fine and imprisonment for knowing violations."

All information required to be submitted by this RFI shall be emailed to the following EPA representatives:

Recipient	Title	Email Address
Larry Gaugler	Team Leader, Small Clean Water Compliance Programs	Gaugler.Larry@epa.gov
Christy Arvizu	Environmental Scientist, Small Clean Water Compliance Programs Team	Arvizu.Christy@epa.gov

Failure to provide the required information may subject the facility to civil/criminal penalties pursuant to Section 309 of the CWA. Failure to comply with the RFI shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

We look forward to the District's cooperation in this matter. If you have questions or comments regarding the PCI, please call me at (212) 637-3950 or contact Christy Arvizu via e-mail at the e-mail address above.

Sincerely,

LARRY
GAUGLER
Larry Gaugler, Team Leader
Small Clean Water Compliance Programs

Digitally signed by
LARRY GAUGLER
Date: 2024.08.08
10:33:36 -04'00'

Enclosures

cc: Rich Latona, Sanitary Chemist, Richard.LaTona@niagaracounty.com
Dan Flanders, Plant Operator, daniel.flanders@niagaracounty.com
Aaron Easing, Chief Operator, Aaron.Earsing@niagaracounty.com
Damianos Skaros, NYSDEC Region 9 RWE, Damianos.Skaros@dec.ny.gov
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290 Broadway
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**PRETREATMENT
COMPLIANCE INSPECTION**

**NIAGARA COUNTY SEWER DISTRICT NO. 1,
NEW YORK**

Report Date: July 31, 2024

Inspection Dates: June 5-6, 2024

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1.0 Introduction

On June 6-7, 2024, the United States Environmental Protection Agency (EPA) Region 2 contractor, Eastern Research Group, (hereinafter, EPA inspection team) conducted a pretreatment compliance inspection (PCI) of the Niagara County Sewer District No. 1, New York's ("District") pretreatment program. The following are the primary representatives who participated in the inspection:

Affiliation	Attendees
District Representative:	Rich Latona, Sanitary Chemist, Richard.LaTona@niagaracounty.com Dan Flanders, Plant Operator, daniel.flanders@niagaracounty.com
EPA Representative:	No EPA representatives participated in the inspection
EPA Contractors:	Chuck Durham, Eastern Research Group, Director of Pretreatment Services, chuck.durham@erg.com Sirese Jacobson, Eastern Research Group, Environmental Scientist, sirese.jacobson@erg.com

PCI Report Author:		
Name: Chuck Durham	Signature: 	Date: 8/2/2024

The purpose of the PCI was to evaluate the District's compliance with the General Pretreatment Regulations for Existing and New Sources of Pollution at 40 CFR Part 403 and the "Pretreatment Program Implementation Requirements" as outlined in the District's New York State Pollutant Discharge Elimination System (SPDES) permit ("Permit" or NY0027979) issued by the New York State Department of Environmental Conservation (NYSDEC). The last inspection was a PCA conducted in October 2015.

Inspection Procedure

Upon arrival, and prior to conducting the PCI, each member of the EPA inspection team presented credentials to Mr. Latona and Mr. Flanders. An opening conference was conducted, during which the overall objectives of the PCI and the plan for conducting the inspection were discussed.

The PCI included an interview with Mr. Latona and Mr. Flanders about the District's implementation of its approved pretreatment program, significant industrial user (SIU) file reviews, and site visits at Precious Plate, Inc. and Boyd Niagara, LLC (formerly Aavid Niagara, LLC) to observe typical inspection practices.

At the conclusion of the PCI, the EPA inspection team conducted a closing conference with Mr.

Latona and Mr. Flanders to discuss the preliminary findings of the PCI and discussed the process for providing a written report to the District. The District was informed that all findings are preliminary. During the closing conference, the EPA inspection team requested the following documents from the District for Precious Plate and Boyd Niagara:

- Permit
- Permit application
- Last inspection (2023)
- 2022 SMR for Precious Plate

The requested files were uploaded to a shared folder on June 25, 2024.

History and Background

The District owns and operates the Niagara County Sewer District #1 wastewater treatment plant (WWTP) under SPDES permit number NY0027979 (**Appendix A**) which authorizes them to discharge treated domestic and industrial wastewater to the East Branch of the Niagara River. The NYSDEC SPDES permit for the Niagara County WWTP has an effective date of April 1, 2015, and an expiration date of March 31, 2020, and has been administratively extended. The District's pretreatment staff consists of Mr. Latona (Senior Chemist) and Mr. Flanders (Plant Operator).

Condition B of the *Pretreatment Program Implementation Requirements* in the District's SPDES permit (pages 11 - 12) requires the WWTP to implement a Publicly Owned Treatment Works (POTW) pretreatment program in accordance with 40 CFR Part 403 and as set forth in its pretreatment program submission, approved by EPA on September 26, 1985. Mr. Latona noted that the District serves the Towns of Lockport, Penelton, Niagara, Wheatfield, Cambria and part of the Town of Lewiston. The WWTP's design flow is 14.08 million gallons per day (MGD) and the average flow is 8.0 MGD. As the control authority, and under the sewer use ordinance (SUO) (**Appendix D**) and SPDES permit, the POTW is required to conduct periodic industrial surveys, issue control mechanisms to each significant industrial user (SIU), require monitoring of industrial discharges to the POTW, perform at minimum annual inspections, and take enforcement when necessary to ensure compliance, as well as maintain staffing and record keeping in accordance with the approved program and all federal laws and rules.

The District permits ten (10) SIUs, including nine categorical industrial users (CIUs). In addition, the District permits six (6) non-SIUs, including:

- Two (2) groundwater remediation facilities;
- Meog (propulsion systems for rocket testing);
- Niagara Falls Air Force Base (de-icing);
- Pyrotek – carbide manufacturer;
- Wheatfield business park.

These non-SIUs are not sampled or inspected by the District, however, self-monitoring is required at varying frequencies. All ten SIUs have slug discharge control plans.

The District does not provide oversight of food service establishments and each contributing agency implements their own fats, oils, and grease (FOG) program.

The District representatives noted that the sewer use ordinance (SUO) was last updated in 2017 and the enforcement response plan (ERP) was last updated in 2021. The District representatives said that the local limits were last updated in 2017 when the SUO was updated.

The District accepts hauled waste from one SIU (Niacet) which is an Organic Chemicals, Plastics, Synthetic Fibers facility, subject to 40 CFR Part 414 located outside of the District (in the City of Niagara Falls). The SIU samples prior to waste being loaded into tanker trucks, and discharges to the District's plant about 3 times a week. The District collects samples from the truck at the treatment facility prior to discharge. The District tests for phenol, low level mercury, ethylenes and volatile organic compounds. In addition, this hauled waste is analyzed for the local limit parameters every three years. The District collects manifests from the hauler but the manifests do not specify the waste being discharged is solely from Niacet. The District does not accept any other hauled waste (septage, grease, etc.).

2.0 Inspection Observations

The EPA inspection team made the following observations relative to the District's pretreatment program implementation.

2.1 *Nondomestic Discharger Characterization*

To identify potential new SIUs, staff from the contributing jurisdictions send out a survey to new users when business license applications are submitted, or new connections requested, and then send that information on to the District. Pretreatment staff also conduct drive-by inspections of new and existing industrial users to observe and determine if more formal inspections are needed. Changes at existing SIUs are noted during annual inspections. The District requires the permitted SIUs submit flow records monthly.

The EPA inspection team noted that the District does not have a process for identifying changes at the six permitted, existing non-SIU facilities. The EPA inspection team noted that the District could review non-SIU billing/water usage records to identify changes in water use at its permitted non-SIUs that would make them SIUs.

The District does not issue permits to dental facilities but inspects them every five years if there are no issues. If issues are found during an inspection the inspection frequency is increased to annually until resolved. According to the District representatives, all facilities have submitted their one-time certification reports.

2.2 *Legal Authority*

District representatives noted that the SUO (**Appendix D**) was last modified in 2017 and the ERP

was modified in 2021. The representatives said that the local limits were last updated in 2017 when the SUO was updated. The EPA inspection team reminded the District that it needs to complete its headworks analysis and evaluate its local limits to see if they are still appropriate.

The District has not adopted any streamlining rule provisions because New York state pretreatment regulations did not allow the optional provisions. However, the state just modified its rules in the last few months to include optional provisions, thereby allowing Control Authorities to adopt these optional provisions.

2.3 SIU Permits/Control Mechanisms

As indicated previously, the District has 10 SIUs. The EPA inspection team reviewed the files for the following two CIUs:

1. Precious Plate (permit # 24-02; **Appendix B**), CIU subject to 40 CFR Part 433.17
2. Boyd Niagara, LLC (permit # 24-06; **Appendix C**), CIU subject to 40 CFR Part 433.17

The EPA inspection team reviewed the permits for these two facilities to verify that all required control mechanism elements as outlined in 40 CFR § 403.8(f)(1)(iii)(B) were present. The EPA inspection team observed the following issues as they relate to the Precious Plate and Boyd Niagara industrial user permits:

1. The Precious Plate permit denotes the facility performs metal finishing but does not explicitly refer to 40 CFR § 433.17. The permit does say 40 CFR § 421.266(h) applies to the discharge.
2. The Boyd Niagara permit does not specify whether the industrial user is a new or existing source metal finisher.
3. The Boyd Niagara permit only requires the SIU to collect one sample a year for mercury. This is part of the District's Mercury Abatement Program.
4. The Precious Plate permit doesn't specify whether the 24-hour composite sample should be flow-proportional or time-proportional (if authorized).
5. The Precious Plate permit does not describe the sampling point location for WS 002 and the sampling point description could be improved for sample point WS 003.
6. The SIU permits reviewed contain record retention language; however, it does not specify that the retention period may be extended at the request of EPA, nor does it include language requiring retaining records beyond three years in the event of litigation by the state or EPA.
7. The transferability language in the SIU permits reviewed does not specify that the new owner/operator must be provided with a copy of the existing permit.
8. The SIU permits reviewed did not include bypass notification requirements.

9. The SIU permits reviewed were missing the requirement that SIUs must notify the District within 24 hours of becoming aware of a violation.
10. The SIU permits reviewed did not include the requirement for the SIU to notify the District of changes affecting the potential for a slug discharge.
11. Special Condition No. 4 in the Precious Plate permit denotes that the discharge from WS003 (subject to 40 CFR 421.266(h)), after treatment and filtration, can be routed through the pretreatment system for discharge through the WS002 outfall.

2.4 Compliance Monitoring

For the files reviewed for the period of January 2022 - April 2024, the EPA inspection team observed the following:

1. Page 3 of the October 2023 inspection report for Boyd Niagara lists “Electroplating operations” and has “None of the above” checked. The SIU performs chromating and is permitted as a CIU subject to 40 CFR § 433.17.

2.5 Enforcement

For the files reviewed from January 2022 – April 2024, the EPA inspection team observed that Boyd Niagara failed to make payment of a previous fine from April 2023 for late payment on a previous penalty and failure to submit mercury analytical report on time. On July 14, 2023, a NOV (non-SNC) letter was issued to Boyd Niagara that included an additional \$250 fine in addition to the original \$500 fine that the IU failed to pay. Full payment was received on July 20, 2023.

The District has not placed an industrial user in SNC since 2022 when VWR was in violation of its selenium and nickel limits. The SNC was published in the *Niagara Gazette* in April 2023.

2.6 Industrial User Site Visits

The EPA inspection team performed a walk-through of Boyd Niagara and Precious Plate. The EPA inspection team observed what a typical inspection conducted by the District at permitted industrial users is like to gain insight on the District’s inspection procedures.

The following observations from the site visits are noted below:

Boyd Niagara, LLC

The EPA inspection team accompanied Mr. Latona and Mr. Flanders to the industrial user on June 5, 2024, and met with Ryan Taylor, Chemical Line Operator, and Dana Meslor, Operations Manager, for a brief opening conference before conducting the facility walk-through. The EPA inspection team arrived at approximately 1:00 pm and completed the site visit at approximately 3:15 pm. The facility manufactures heat exchangers/radiators and makes parts for the Department of Defense and the aerospace industry, including parts for lunar landers, M1 tanks and F-15 planes. Aluminum sheet stock is run through the fin machine to fabricate fins for the

radiators. Top and bottom pieces are formed and the pieces are then welded together to form the radiator. Parts are cleaned using a degreaser and then stacked into the brazing oven. After welding, the parts go to the leak test department. The majority of all parts then go through the chromacoat (chrome plating) process (see Photograph 2 in **Appendix E**). In the chromacoat line, parts are treated with Oakite (an acid cleaner) and then a deoxidizer is applied to prepare the material for the chromacoat process. Parts are then dried and then go to painting (two spray booths). The wastewater discharge from this process is hauled off-site by Environmental Services Group every 2-3 months, and is not discharged to the sewer.

During the site visit:

1. The EPA inspection team observed that a non-hazardous waste (bucket of magnesium) was stored with hazardous waste. The EPA inspection team noted that the industrial user should document why this is occurring, if it is considered.

Precious Plate

The EPA inspection team accompanied Mr. Latona and Mr. Flanders to the industrial user on June 6, 2024, arriving at approximately 9:00 am and completed the site visit at approximately 11:45 pm. The inspection team met with Bill Lekki, Technical Director, for a brief opening conference before conducting the walk-through. The facility is a specification electroplater specializing in computer, solar and battery industry parts. Raw materials used include silver, gold, palladium tin, nickel, copper, and tin-lead. Mr. Lekki noted that the tri-metal alloy plating line added in 2021 will be moved to the Entraplate facility across the road once it begins operation. Entraplate is a new facility owned by Precious Plate. The facility receives raw material in coil form. Using a reel-to-reel process, the substrate is given an undercoat of copper or nickel (or both) and then a thin layer of tin is coated on to the substrate (see Photograph 3 in **Appendix E**). Wastewater that is treated in the facility's pretreatment system includes cyanide rinse water and alkaline and acid pit overflow. The pretreatment system includes a clarifier where polymer is added, and then pH is adjusted in the weir box (see Photographs 4 and 5 in **Appendix E**). Sludge from the clarifier flows to a sludge holding tank and then to three filter presses. The wastewater from the filter presses goes back to the alkaline pit at the beginning of the treatment process. The metal hydroxide sludge is sent offsite for disposal by World Resources.

During the site visit:

1. The EPA inspection team and Precious Plate personnel discussed the option to develop a toxic organics management plan (TOMP) to manage stored chemicals. For information on what a TOMP should include, please refer to 40 CFR 433.12.

3.0 Summary

3.1 Potential Non-Compliance Items

1. 40 CFR § 403.8(f)(1)(iii)(B)(3) requires individual control mechanisms to contain a statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator.

The EPA inspection team observed that the transferability language in the SIU permits reviewed did not specify that the new owner must be provided a copy of the permit.

2. 40 CFR § 403.8(f)(1)(iii)(B)(4) requires all SIU permits to include self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law.

During the inspection, the EPA inspection team observed:

- a. The Precious Plate permit does not describe the sampling point location for WS 002. In addition, the sampling point description for sample point WS 003 could be improved to include specifics.
 - b. Record retention language in the Precious Plate and Boyd Niagara permits do not specify that the retention period may be extended at the request of EPA nor do the permits include language requiring retaining records beyond three years in the event of litigation by the state or EPA.
3. 40 CFR § 403.8(f)(1)(iii)(B)(4) requires industrial user permits to include self-monitoring requirements for SIUs. In addition, 40 CFR § 403.12(h) requires IUs to submit periodic reports on continued compliance at least once every six months.

The EPA inspection team observed that the Boyd Niagara permit requires the SIU to collect one sample a year for mercury. This is part of the District's Mercury Abatement Program. However, because a numeric limit is included and the District will enforce if exceeded, and the permittee is an SIU, the minimum frequency for self-monitoring must be twice per year.

4. 40 CFR § 403.8(f)(2)(iii) requires the District to notify industrial users of their classification under pretreatment regulations and applicable standards and requirements.

During the inspection, the EPA inspection team observed:

- a. The Boyd Niagara permit does not specify whether the industrial user is a new or existing source.
- b. Precious Plate performs operations subject to 40 CFR 433.17 and 421.266(h). The Precious Plate permit specifies that the CIU is subject to 40 CFR 421.266(h), but does not explicitly state "40 CFR 433.17".

5. 40 CFR § 403.12(g)(3) requires that 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority.

The Precious Plate permit doesn't specify whether the 24-hour composite sample should be flow-proportional or time-proportional (if authorized).

6. 40 CFR § 403.17(c) states that if an Industrial User knows in advance of the need for a bypass, it must submit prior notice to the Control Authority, if possible, at least ten days before the date of the bypass. Furthermore, the regulation stipulates that an industrial user must submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission must also be provided within 5 days of the time the industrial user becomes aware of the bypass.

During the inspection, the EPA inspection team observed that the SIU permits reviewed did not include bypass notification requirements in accordance with 40 CFR § 403.17.

7. 40 CFR § 403.12(g)(2) stipulates if sampling performed by an industrial user indicates a violation, the user must notify the Control Authority within 24 hours of becoming aware of the violation.

At the time of the inspection, the inspection team observed that the SIU permits reviewed did not include the requirement to notify the District within 24 hours of becoming aware of a violation if sampling performed by the permittee indicates a violation.

8. 40 CFR § 403.8(f)(2)(vi) requires all SIUs to notify the POTW immediately of any changes affecting the potential for a slug discharge.

The EPA inspection team observed that none of the SIU permits reviewed included the requirement for the SIU to notify the District of changes that affect the potential for a slug discharge.

3.2 Areas of Concern

1. The District's SUO does not include all of the required 2005 streamlining changes, including the optional streamlining changes that were promulgated by New York State in 2023. The EPA inspection team noted that the District may want to consider revisions to its SUO and ERP to adopt optional streamlining provisions now that New York state has adopted them
2. 40 CFR § 403.5(c)(1) requires development of local limits to prevent pass-through and interference. Furthermore, the POTW shall perform periodic evaluations of its local limits to ensure they are protective of the collection system and the wastewater plant.

The District's local limits have not been reviewed or revised since 2017.

3. The District accepts hauled waste from Niacet, a CIU. The District collects manifests from the hauler; however, the manifests do not specify the waste being discharged is solely from Niacet.

4. The EPA inspection team noted that the District does not currently review non-SIU billing/water usage records to determine if there are changes in water use at its permitted non-SIUs that would make them SIUs.
5. Special Condition No. 4 in the Precious Plate permit denotes that the discharge from WS003 (subject to 40 CFR 421.266(h)), after treatment and filtration, can be routed through the pretreatment system for discharge through the WS002 outfall. The inspection team noted that, while the low flow may not have a significant effect on the results, any sample collected after these streams would not be an accurate representation of the WS002 characteristics for comparison with 40 CFR 433.17 pretreatment standards. The inspection team also noted that, while the low flow may not have a significant effect on the results, any sample collected after these streams would not be an accurate representation of the WS002 characteristics for comparison with 40 CFR 433.17 pretreatment standards.