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Air Title V Operating Permit (AOP) - Renewal

version 2.6

(Submission #: HQG-4WHA-AKMVJ, version 1)

Details

Submission ID HQG-4WHA-AKMVJ

Status In Process

Form Input

Form Instructions

In accordance with 33.1-15-14-04.c. of the North Dakota Air Pollution Control Rules, a Title V permit renewal application must be submitted to the Department at least six months, but no more than eighteen months, prior to the expiration date. Permit renewal applications are incomplete unless all information requested in SFN 52824 is supplied. The current Title V permit will be the baseline reference for a renewal. The requirements (40 CFR 70.5(c) & NDAC 33.1-15-14-06.4.c) to include a citation and description of all applicable requirements and a description of or reference to any applicable test method for determining compliance with each applicable requirement may be met by accomplishing either or both of the following: 1) provide an annotated (red-lined) copy of the current permit indicating all changes needed to reflect the current facility configuration, applicable requirements and test methods; 2) provide a narrative that conveys all changes needed to the current permit to reflect the current facility configuration, all applicable requirements and test methods.

FOR ACID RAIN UNITS ONLY ♦ Submit with the Title V permit renewal application all Acid Rain renewal applications (the Acid Rain Permit Application, the Phase II NOx Compliance Plan, and if applicable, the Phase II NOx Averaging Plan).

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

Section A - Permit Information

Permit Number

AOP-28360

Permit Version

2

Issue Date

04/26/2023

Expiration Date

04/13/2026

Permittee

Company Name

Basin Electric Power Cooperative

Address

1717 East Interstate Avenue

Bismarck, ND 58503-0564

United States

Responsible Official

Prefix

NONE PROVIDED

First Name Last Name

Troy Tweeten

Title

Senior VP of Generation

Phone Type Number Extension

Business 7012230441

Email

ttweeten@bepc.com

Address

1717 East Interstate Avenue

Bismarck, ND 58503

United States

Contact Person for Air Pollution Matters

Prefix

NONE PROVIDED

First Name Last Name

Erin Fox Dukart

Title

Director, Environmental Services

Phone Type Number Extension

Business 7015575557

Email

edukart@bepc.com

Address

1717 East Interstate Avenue

Bismarck, ND 58503

United States

Section B (Part 1) - Facility Information

Facility Name

Basin Electric Power Cooperative - Lonesome Creek Station

Have you added, removed, or made any modifications to equipment since your last operating permit issuance?

No

Is this source subject to Title IV Acid Rain regulations?

Yes

Is this a portable source?

No

Facility Location

2648 - 140th Ave NW

1717 East Interstate ave

Alexander, ND 58831

United States

County

McKenzie

Facility Location:

47.79636100000000,-103.57830000000000

2648 - 140th Ave NW, Alexander, ND

Section B (Part 2) - Additional Location Information

Legal Description of Facility Site

Qtr Qtr	Qtr	Section	Township	Range
NE	SW	23	150N	101W

Land area at facility site (indicate whether measurement is in acres or sq. ft.)

NONE PROVIDED

MSL elevation at facility

NONE PROVIDED

Section C - Nature of Business

General Nature of Business

Describe Nature of Business	NAICS Code	SIC Code
Electricity Generation	221112-Fossil Fuel Electric Power Generation	4911-Electric Services

Actual Start of Construction Date

NONE PROVIDED

Actual End of Construction Date

NONE PROVIDED

Facility Startup Date

NONE PROVIDED

Section D - Process Equipment Information (1 of 1)

Emission Unit -

Emission Unit ID

NONE PROVIDED

Emission Unit Description

NONE PROVIDED

Emission Point ID

NONE PROVIDED

Emission Point Description

NONE PROVIDED

Emission Process Description

NONE PROVIDED

Emission Unit Status

NONE PROVIDED

Applicable PTCs

PTC Number

Applicable Federal Air Programs

Program Code

Applicable State Regulations

Regulation

Emission Unit form

Download the emission unit form linked here, complete it, and upload it to this application using the attachment control below.

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

[EMISSION UNIT FOR TITLE V PERMIT TO OPERATE \(SFN61006\)](#)

Attach Emission Unit Form

<i>NONE PROVIDED</i>
Comment
<i>NONE PROVIDED</i>

Section F - Facility-Wide Applicable Regulations and Potential to Emit (PTE)

Applicable Federal Air Programs

Program Code

Applicable State Regulations

Regulation

Potential to Emit (PTE)

Pollutant	Tons Per Year Without Fugitives	Tons Per Year With Fugitives
NOx	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
CO	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
VOCs	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
SO2	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
PM	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
PM10	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
PM2.5	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>
Total HAPs	<i>NONE PROVIDED</i>	<i>NONE PROVIDED</i>

Emission Calculations Document Upload

Using the attachment control below, upload emission calculations documents.

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

Attach Emission Calculations Documents

<i>NONE PROVIDED</i>
Comment
<i>NONE PROVIDED</i>

Section G - Compliance Schedule

Will your facility be in compliance with all applicable requirements effective at the time of permit issuance?

Yes

Will your facility be in compliance with all applicable requirements effective after the time of permit issuance?

Yes

Section H - Flexible Permits

Are you requesting a flexible permit?

No

Section I - Compliance Assurance Monitoring (CAM)

To determine if your facility is subject to CAM, review the information provided at the following link.

[Compliance Assurance Monitoring \(CAM\) Guidance](#)

Is the facility identified in this application in compliance with applicable monitoring and compliance certification requirements?

Yes, the facility IS in compliance with applicable monitoring and compliance certification requirements.

Section J - Title IV - Acid Rain

Download the applicable EPA Acid Rain form(s) linked here, complete, and upload to this application using the attachment control below.

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

[EPA Acid Rain Application](#)

Attach completed Acid Rain form(s) here

[acid_rain_permit_application_final_Signed.pdf - 10/10/2025 11:30 AM](#)

Comment

NONE PROVIDED

Section K - Redline Permit Upload

Use the attachment control below to upload a redline version of your existing permit document, showing any changes.

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

Attach redline version of permit here

[AOP28360v2_1_Redline.docx - 10/10/2025 11:36 AM](#)

Comment

NONE PROVIDED

Section L - General Document Upload

File Upload

Use the attachment control below to upload any other information necessary for application review, such as plot plans, process diagrams, maps, etc.

When completing the online application, if uploaded files are provided in each section (when indicated), do not include those same files in the General Document Upload/File Upload section. If uploading the application files in the General Document Upload/File Upload section, only fill out the required (asterisked) sections of the online application.

Attachments

NONE PROVIDED

Comment

NONE PROVIDED

Additional Forms

NONE PROVIDED

Attachments

Date	Attachment Name	Context	User
10/10/2025 11:36 AM	AOP28360v2_1_Redline.docx	Attachment	Erin Fox Dukart
10/10/2025 11:30 AM	acid_rain_permit_application_final_Signed.pdf	Attachment	Erin Fox Dukart

Status History

	User	Processing Status
10/6/2025 9:26:31 AM	Erin Fox Dukart	Draft
10/10/2025 3:41:44 PM	Troy Tweeten	Signing
10/10/2025 3:41:45 PM	Troy Tweeten	Submitting
10/10/2025 3:42:53 PM	Troy Tweeten	Submitted
10/10/2025 3:43:02 PM	Troy Tweeten	In Process

Agreements and Signature(s)

SUBMISSION AGREEMENTS

- I am the owner of the account used to perform the electronic submission and signature.
- I have the authority to submit the data on behalf of the facility I am representing.
- I agree that providing the account credentials to sign the submission document constitutes an electronic signature equivalent to my written signature.
- I have reviewed the electronic form being submitted in its entirety, and agree to the validity and accuracy of the information contained within it to the best of my knowledge.

I certify under penalty of law that the enclosed documents and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I also certify that the source(s) identified in this application is/are in compliance with all applicable requirements except those requirements for which a compliance schedule has been submitted in the Compliance Schedule Form or Compliance Schedule Section of the application. I understand that failure to comply with any term of a compliance schedule is considered to be a violation of regulation NDAC 33.1-15-14-06.1.e. The source will continue to comply with the current applicable requirements with which it is in compliance. The source will meet, on a timely basis, any applicable requirement, which becomes effective during the permit term. The source is properly implementing any required risk management plan in accordance with section 112(r) of the federal clean air act, if appropriate.

I certify, as the Responsible Official, that I have read and understood the above requirements and conditions applicable to my source/facility and that the information and attachments provided in this application are true, accurate, and complete to the best of my knowledge." Further, I agree to comply with the provisions of Chapter 23.1-06 of the North Dakota Century Code and all rules and regulations of the Department, or revisions thereof. I also understand a permit is nontransferable and, if granted a permit, I will promptly notify the Department upon sale or legal transfer of this permitted establishment.

Note: This certification must be signed by a "responsible official" as defined in NDAC 33.1-15-14-06.1.

Signed
By Troy Tweeten on 10/10/2025 at 3:41 PM

Facility (Source) Name (from STEP 1) Lonesome Creek Station

STEP 3**Read the standard requirements.****Permit Requirements**

- (1) The designated representative of each affected source and each affected unit at the source shall:
- (i) Submit a complete Acid Rain permit application (including a compliance plan) under 40 CFR part 72 in accordance with the deadlines specified in 40 CFR 72.30; and
 - (ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review an Acid Rain permit application and issue or deny an Acid Rain permit;
- (2) The owners and operators of each affected source and each affected unit at the source shall:
- (i) Operate the unit in compliance with a complete Acid Rain permit application or a superseding Acid Rain permit issued by the permitting authority; and
 - (ii) Have an Acid Rain Permit.

Monitoring Requirements

- (1) The owners and operators and, to the extent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in 40 CFR part 75.
- (2) The emissions measurements recorded and reported in accordance with 40 CFR part 75 shall be used to determine compliance by the source or unit, as appropriate, with the Acid Rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the Acid Rain Program.
- (3) The requirements of 40 CFR part 75 shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Act and other provisions of the operating permit for the source.

Sulfur Dioxide Requirements

- (1) The owners and operators of each source and each affected unit at the source shall:
- (i) Hold allowances, as of the allowance transfer deadline, in the source's compliance account (after deductions under 40 CFR 73.34(c)), not less than the total annual emissions of sulfur dioxide for the previous calendar year from the affected units at the source; and
 - (ii) Comply with the applicable Acid Rain emissions limitations for sulfur dioxide.
- (2) Each ton of sulfur dioxide emitted in excess of the Acid Rain emissions limitations for sulfur dioxide shall constitute a separate violation of the Act.
- (3) An affected unit shall be subject to the requirements under paragraph (1) of the sulfur dioxide requirements as follows:
- (i) Starting January 1, 2000, an affected unit under 40 CFR 72.6(a)(2); or
 - (ii) Starting on the later of January 1, 2000 or the deadline for monitor certification under 40 CFR part 75, an affected unit under 40 CFR 72.6(a)(3).
- (4) Allowances shall be held in, deducted from, or transferred among Allowance Tracking System accounts in accordance with the Acid Rain Program.
- (5) An allowance shall not be deducted in order to comply with the requirements under paragraph (1) of the sulfur dioxide requirements prior to the calendar year for which the allowance was allocated.
- (6) An allowance allocated by the Administrator under the Acid Rain Program is a limited authorization to emit sulfur dioxide in accordance with the Acid Rain Program. No provision of the Acid Rain Program, the Acid Rain permit application, the Acid Rain permit, or an exemption under 40 CFR 72.7 or 72.8 and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.
- (7) An allowance allocated by the Administrator under the Acid Rain Program does not constitute a property right.

Nitrogen Oxides Requirements

The owners and operators of the source and each affected unit at the source shall comply with the applicable Acid Rain emissions limitation for nitrogen oxides.

Facility (Source) Name (from STEP 1) Lonesome Creek Station

STEP 3, Cont'd.**Excess Emissions Requirements**

- (1) The designated representative of an affected source that has excess emissions in any calendar year shall submit a proposed offset plan, as required under 40 CFR part 77.
- (2) The owners and operators of an affected source that has excess emissions in any calendar year shall:
 - (i) Pay without demand the penalty required, and pay upon demand the interest on that penalty, as required by 40 CFR part 77; and
 - (ii) Comply with the terms of an approved offset plan, as required by 40 CFR part 77.

Recordkeeping and Reporting Requirements

- (1) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Administrator or permitting authority:
 - (i) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative;
 - (ii) All emissions monitoring information, in accordance with 40 CFR part 75, provided that to the extent that 40 CFR part 75 provides for a 3-year period for recordkeeping, the 3-year period shall apply.
 - (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the Acid Rain Program; and,
 - (iv) Copies of all documents used to complete an Acid Rain permit application and any other submission under the Acid Rain Program or to demonstrate compliance with the requirements of the Acid Rain Program.
- (2) The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the Acid Rain Program, including those under 40 CFR part 72 subpart I and 40 CFR part 75.

Liability

- (1) Any person who knowingly violates any requirement or prohibition of the Acid Rain Program, a complete Acid Rain permit application, an Acid Rain permit, or an exemption under 40 CFR 72.7 or 72.8, including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement pursuant to section 113(c) of the Act.
- (2) Any person who knowingly makes a false, material statement in any record, submission, or report under the Acid Rain Program shall be subject to criminal enforcement pursuant to section 113(c) of the Act and 18 U.S.C. 1001.
- (3) No permit revision shall excuse any violation of the requirements of the Acid Rain Program that occurs prior to the date that the revision takes effect.
- (4) Each affected source and each affected unit shall meet the requirements of the Acid Rain Program.
- (5) Any provision of the Acid Rain Program that applies to an affected source (including a provision applicable to the designated representative of an affected source) shall also apply to the owners and operators of such source and of the affected units at the source.
- (6) Any provision of the Acid Rain Program that applies to an affected unit (including a provision applicable to the designated representative of an affected unit) shall also apply to the owners and operators of such unit.
- (7) Each violation of a provision of 40 CFR parts 72, 73, 74, 75, 76, 77, and 78 by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the Act.

Lonesome Creek Station Facility (Source) Name (from STEP 1)
--

STEP 3, Cont'd.

Effect on Other Authorities

No provision of the Acid Rain Program, an Acid Rain permit application, an Acid Rain permit, or an exemption under 40 CFR 72.7 or 72.8 shall be construed as:


- (1) Except as expressly provided in title IV of the Act, exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the Act, including the provisions of title I of the Act relating to applicable National Ambient Air Quality Standards or State Implementation Plans;
- (2) Limiting the number of allowances a source can hold; provided, that the number of allowances held by the source shall not affect the source's obligation to comply with any other provisions of the Act;
- (3) Requiring a change of any kind in any State law regulating electric utility rates and charges, affecting any State law regarding such State regulation, or limiting such State regulation, including any prudence review requirements under such State law;
- (4) Modifying the Federal Power Act or affecting the authority of the Federal Energy Regulatory Commission under the Federal Power Act; or,
- (5) Interfering with or impairing any program for competitive bidding for power supply in a State in which such program is established.

STEP 4

Certification

Read the certification statement, sign, and date.

I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.

Name Troy Tweeten	
Signature 	Date October 10, 2025

**AIR POLLUTION CONTROL
TITLE V PERMIT TO OPERATE**

Permittee: Name: Basin Electric Power Cooperative	Permit Number: AOP-28360 v2.1
Address: 1717 E Interstate Avenue Bismarck, ND 58503	Source Name: Lonesome Creek Station
Source Location: 2648 - 140 th Avenue NW Alexander, ND 58831 NE ¼, SW ¼, Sec. 23, T150N, R101W McKenzie County	Source Type: Electric Generating Units; Combustion Turbines
Expiration Date: April 13, 2026	

Pursuant to Chapter 23.1-06 of the North Dakota Century Code (NDCC), and the Air Pollution Control Rules of the State of North Dakota, Article 33.1-15 of the North Dakota Administrative Code (NDAC), and in reliance on statements and representations heretofore made by the permittee (i.e., owner) designated above, a Title V Permit to Operate is hereby issued authorizing such permittee to operate the emissions units at the location designated above. This Title V Permit to Operate is subject to all applicable rules and orders now or hereafter in effect of the North Dakota Department of Environmental Quality (Department) and to any conditions specified on the following pages. All conditions are enforceable by EPA and citizens under the Clean Air Act unless otherwise noted.

Renewal: 6/1/2021
Revision (Sig. Mod.): 4/26/23

James L. Semerad
Director
Division of Air Quality

Lonesome Creek Station
Title V Permit to Operate
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Abbreviations and Acronyms

acfm	-	Actual Cubic Feet Per Minute
ASTM	-	American Society for Testing and Materials
avg.	-	Average
BACT	-	Best Available Control Technology
BEPC	-	Basin Electric Power Cooperative
BMP	-	Best Management Practices
CatOx	-	Catalytic Oxidation
CEMS	-	Continuous Emissions Monitoring System
CO	-	Carbon Monoxide
CPM	-	Condensable Particulate Matter
CT	-	Combustion Turbine
dscf	-	Dry Standard Cubic Feet
EGU	-	Electric Generating Unit
EP	-	Emission Point
EU	-	Emission Unit
Fug.	-	Fugitive
GJ	-	Gigajoule
gr	-	Grains
HAP	-	Hazardous Air Pollutant
HHV	-	Higher Heating Value
hr	-	Hour
lb/hr	-	Pounds Per Hour
lb/10 ⁶ Btu	-	Pounds Per Million British Thermal Units
lb/MWe-hr	-	Pounds Per Megawatt Hour

LDAR	-	Leak Detection and Repair
MWe	-	Megawatts of Electricity
MWh	-	Megawatt-hour as referenced in 40 CFR 60, Subpart KKKK
NO _x	-	Nitrogen Oxides
N/A	-	Not Applicable
NSPS	-	New Source Performance Standards (40 CFR 60 and NDAC 33.1-15-12-02)
O&M	-	Operations and Maintenance
PM	-	Particulate Matter
PM ₁₀	-	Particulate Matter with an Aerodynamic Diameter Equal to or Less Than 10 Micrometers in Diameter
PM _{2.5}	-	Particulate Matter with an Aerodynamic Diameter Less Than or Equal to 2.5 Micrometers
ppmvd	-	Parts per Million by Volume on a Dry Basis
PSD	-	Prevention of Significant Deterioration
r.a.	-	Rolling Average
RICE	-	Reciprocating Internal Combustion Engines
scf	-	Standard Cubic Feet
SCR	-	Selective Catalytic Reduction
SO ₂	-	Sulfur Dioxide
TBD	-	To Be Determined
VEO	-	Visible Emissions Observation
VOC	-	Volatile Organic Compounds
4 h.r.a.	-	4-Hour Rolling Average
8 h.r.a.	-	8-Hour Rolling Average
12 m.r.t.	-	12-Month Rolling Total

1. **Emission Unit Identification:**

The emission units regulated by this permit are as follows:

Emission Unit Description	Emission Unit (EU)	Emission Point (EP)	Air Pollution Control Equipment
Six simple cycle combustion turbines, natural gas-fired, GE Model LM6000 PF Sprint each nominally rated at 46.0 MWe gross and 412 x 10 ⁶ Btu/hr maximum heat input (EU 1 through 3 constructed 2013 & 2014; KKKK) (EU 4 & 5 constructed 2015, EU 6 constructed 2021; KKKK, TTTT)	1 through 6	1 through 6	SCR & CatOx

2. **Applicable Standards, Restrictions and Miscellaneous Conditions:**

- A. **Fuel Restriction:** The turbines (EU 1 through EU 6) shall be operated using only pipeline quality natural gas with sulfur content no greater than 2 grains per 100 standard cubic feet as defined in NDAC 33.1-15-01.

Applicable Requirements: NDAC 33.1-15-14-02.9.f, ACP-17545 v1.0, ACP-17720 v1.0 and ACP-17967 v1.0

- B. **Best Management Practices:** At all times, including periods of startup, shutdown and malfunction, the permittee shall, to the extent practicable, maintain and operate any affected emission unit including associated air pollution control equipment in a manner consistent with good air pollution control and good combustion practice for minimizing emissions.

Applicable Requirement: NDAC 33.1-15-14-02.9

- C. **Stack Heights:** Emissions from EP 1 through EP 6 shall be vented from a stack height of at least 80 feet.

Applicable Requirements: ACP-17545 v1.0, ACP-17720 v1.0 and ACP-17967 v1.0

- D. **New Source Performance Standards:** The permittee shall comply with all applicable requirements of the following NDAC 33.1-15-12-02 and 40 CFR 60 subparts in addition to complying with Subpart A – General Provisions.

- 1) Subpart KKKK – Standards of Performance for Stationary Combustion Turbines (EU 1 through EU 6).
- 2) Subpart TTTT - Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units (EU 4 through 6).

Applicable Requirements: NDAC 33.1-15-12-02, Subparts A, KKKK and TTTT

Commented [ED1]: LCS will have a spare turbine on site. We would like to discuss how this section would apply to that turbine.

E. **Like-Kind Turbine Replacement:** This permit allows the permittee to replace the existing turbine(s) with a like-kind turbine. Replacement is subject to the following conditions.

- 1) The Department must be notified within 10 days after change-out of the turbine.
- 2) The replacement turbine shall operate in the same manner, provide no increase in throughput and have equal or less emissions than the turbine it is replacing.
- 3) The date of manufacture of the replacement turbine must be included in the notification. The facility must comply with any applicable federal standards (e.g., NSPS, NESHAP, MACT) triggered by the replacement.
- 4) The replacement turbine is subject to the same state emission limits as the existing turbine in addition to any NSPS or MACT emission limit that is applicable. Testing of NO_x and CO emissions shall be conducted to confirm compliance with the emission limits within 180 days after start-up of the new turbine.

Applicable Requirement: NDAC 33.1-15-14-06.5.b(1)

3. **Emission Unit Limits:**

A. The emission limits established by this permit are as follows:

Emission Unit Description	EU	EP	Pollutant/Parameter	Emission Limit	NDAC Applicable Requirement
Combustion turbines	1, 2, 3, 4 & 5	1, 2, 3, 4 & 5	CPM & PM ₁₀ /PM _{2.5} (filterable)	5.0 lb/hr (each turbine) ^A	ACP-17720 v1.0
			NO _x	5.0 ppmvd @ 15% O ₂ [4-hr rolling average (avg.)] ^B & 42.9 lb/hr (total) (1-hr block avg.) ^{E, F} & 49.2 lb/hr (total) (1-hr block avg.) ^{E, G} & 25 ppmvd or 1.2 lb/MWh of useful output ^C / 96 ppmvd or 4.7 lb/MWh of useful output ^D	ACP-17720 v1.0 ACP-17720 v1.0 ACP-17720 v1.0 33.1-15-12-02, Subpart KKKK 33.1-15-12-02, Subpart KKKK
			SO ₂	0.90 lb/MWh gross output ^E & 0.060 lb/10 ⁶ Btu heat input ^E	33.1-15-12-02, Subpart KKKK
			CO	6.0 ppmvd @ 15% O ₂ (8-hr rolling avg.) ^B	ACP-17720 v1.0
			Opacity	20% ^H	ACP-17720 v1.0 & 33.1-15-14-03-02

Emission Unit Description	EU	EP	Pollutant/Parameter	Emission Limit	NDAC Applicable Requirement
Combustion turbine	6	6	CPM & PM ₁₀ /PM _{2.5} (filterable)	5.0 lb/hr (3-hour avg.) ^A	ACP-17967 v1.0
			NO _x	7.8 lb/hr (30-day rolling avg.) ^B & 37.0 lb/hr (max. 1-hour avg.) ^I & 25 ppmvd or 1.2 lb/MWh of useful output ^C / 96 ppmvd or 4.7 lb/MWh of useful output ^D	ACP-17967 v1.0 ACP-17967 v1.0 33.1-15-12-02, Subpart KKKK 33.1-15-12-02, Subpart KKKK
			SO ₂	0.90 lb/MWh gross output ^E & 0.060 lb/10 ⁶ Btu heat input ^E	33.1-15-12-02, Subpart KKKK
			CO	6.0 lb/hr (30-day rolling avg.) ^B	ACP-17967 v1.0
			Opacity	20% ^H	ACP-17967 v1.0 & 33.1-15-14-03-02
			Combustion turbines	4, 5 & 6	4, 5 & 6

- ^A Average of three test runs.
- ^B This limit does not apply during startup.
- ^C This limit applies at all times including startup, shutdown and malfunction when operating at equal to or greater than 75 percent of peak load or operating at temperatures of equal to or greater than 0° F.
- ^D This limit applies at all times including startup, shutdown and malfunction when operating at less than 75 percent of peak load or operating at temperatures less than 0° F.
- ^E This limit applies at all times including startup, shutdown and malfunction.
- ^F This limit applies to EU/EP 1 through 3. Total for three turbines calculated as the sum of the 1-hour block average emission rates for each unit.
- ^G This limit applies to EU/EP 4 and 5. Total for two turbines calculated as the sum of the 1-hour block average emission rates for each unit.
- ^H See Condition 3.D.
- ^I This limit applies only during periods of startup and shutdown.
- ^J Applies when the turbine(s), EU 4 through 6, supplies its design efficiency or 50 percent, whichever is less, times its potential electric output or less as net-electric sales on either a 12-operating month or a 3-year rolling average basis and combusts more than 90% natural gas (as defined in 40 CFR 60, Subpart TTTT) on a heat input basis on a 12-operating-month rolling average.

K As determined by the procedures in §60.5525. Applies when the turbine(s), EU 4, 5 and 6, combusts 90% or less natural gas (as defined in 40 CFR 60, Subpart TTTT) on a heat input basis on a 12-operating-month rolling average.

- B. **Combustion Turbine NO_x:** For purposes of determining compliance with the NO_x limits on a ppm basis specified in the Condition 3.A table above, the procedures specified in 40 CFR 60, Subpart KKKK shall be used. The permittee shall calculate a rolling average if a valid NO_x emission rate is obtained for at least 3 of the 4 hours (excluding startup and shutdown). For 4-hour rolling periods during which the two different limits apply, the allowable emission rate is the average of the applicable limit during each hour. The higher limit applies for the hour if at any point in the hour the unit was subject to the higher limit.

Applicable Requirements: NDAC 33.1-15-12-02, Subpart KKKK, NDAC 33.1-15-14-02.9 and ACP-17967 v1.0

- C. **Combustion Turbine CO:** For purposes of determining compliance with the ppmvd emission limit in the Condition 3.A table above, the permittee shall calculate an 8-hour rolling average (ppm basis) if a valid CO emission rate is obtained for at least 6 of the 8 hours in which each unit is operating (excludes startup).

Applicable Requirement: NDAC 33.1-15-14-02.9

- D. **Opacity Limits:** The emission units listed in the Condition 3.A table above shall not exceed the following opacity limits:

- 1) **Point Sources:** Twenty percent, except that a maximum of 40% is permissible for not more than one six-minute period per hour. This limit applies at all times. Compliance with this visible emissions limit shall be determined by conducting observations in accordance with NDAC 33.1-15-03-05 (Method 9 of 40 CFR 60, Appendix A as incorporated by reference into NDAC 33.1-15-12).

Applicable Requirement: NDAC 33.1-15-03-02

- 2) **Fugitive Emissions:** The permittee shall not discharge into the ambient air any air contaminant which exhibits an opacity greater than 40% for more than one six-minute period per hour. Such visible emissions shall have been visibly transported off the property of emission origination and remains visible to an observer positioned off said property when sighting along a line which does not cross the property of emission origination.

Applicable Requirement: NDAC 33.1-15-03-03

4. **Monitoring Requirements and Conditions:**

A. **Requirements:**

Emission Unit Description	EU	Pollutant/Parameter	Monitoring Requirement (Method)	Condition Number	NDAC Applicable Requirement
Combustion turbines	1, 2, 3, 4, 5 & 6	CPM & PM ₁₀ /PM _{2.5} (filterable)	O&M & Recordkeeping	4.B.6 & 4.B.10	33.1-15-14-06.5.a(3)(a)
		NO _x /Oxygen	CEMS	3.B, 4.B.1, 4.B.2, 4.B.4, 4.B.5, 4.B.7, 4.B.8, 4.B.9 & 4.B.10	ACP-17967 v1.0, 33.1-15-21-09, 33.1-15-14-02.9 & 33.1-15-12-02, Subpart KKKK
		SO ₂	Recordkeeping	4.B.11	33.1-15-12-02, Subpart KKKK
		CO	CEMS	3.C, 4.B.1, 4.B.3, 4.B.4, 4.B.5 & 4.B.10	ACP-17967 v1.0, 33.1-15-14-06.5.b(1)
		Opacity	Recordkeeping	4.B.6	33.1-15-14-06.5.a(3)(a)
Combustion turbines	4, 5 & 6	CO ₂	Recordkeeping or Heat Input-Based Calculations, as applicable	4.B.10 & 4.B.12	33.1-15-12-02, Subpart TTTT

B. **Monitoring Conditions:**

- 1) Monitoring shall be in accordance with the applicable requirements of NDAC 33.1-15-12, Subparts KKKK and TTTT and NDAC 33.1-15-21 (40 CFR 75). Emissions are calculated using 40 CFR 75, Appendix F and 40 CFR 60, Appendix A.
- 2) Nitrogen Oxides and Oxygen CEMS: The permittee shall install, calibrate, operate and maintain continuous emission monitors for nitrogen oxides and oxygen in accordance with the requirements of 40 CFR 75 and 40 CFR 60, Subpart KKKK.
- 3) Carbon Monoxide CEMS: The permittee shall install, calibrate, operate and maintain equipment for continuously monitoring the carbon monoxide emission rate from the stack. The systems shall report carbon monoxide emissions in units of ppmvd and lb/hr. The monitoring systems shall comply with the requirements of 40 CFR 60, Appendix B, Performance Specification 4. Quality assurance shall be in accordance with 40 CFR 60, Appendix F.
- 4) The Department may require additional performance audits of the CEMS.

- 5) When a failure of a continuous emission monitoring system occurs, an alternative method, acceptable to the Department, for measuring or estimating emissions must be undertaken as soon as possible. The procedures outlined in 40 CFR 75, Subpart D for substitution are considered an acceptable method. Timely repair of the emission monitoring system must be made.
- 6) For purposes of compliance monitoring, burning of fuels outlined in Condition 2.A shall be considered credible evidence of compliance with CPM, PM₁₀/PM_{2.5} (filterable) and opacity limits. However, results from tests conducted in accordance with the test methods in 40 CFR 50, 51, 60, 61, or 75 will take precedence over the burning of gaseous fuel as outlined in Condition 2.A for evidence of compliance or noncompliance with the PM and opacity limits in the event of enforcement action.
- 7) The permittee shall install, calibrate, operate and maintain equipment for measuring and recording the gross energy output (MWe) on an hourly basis in accordance with 40 CFR 60, Subpart KKKK.
- 8) The permittee shall install, calibrate, operate, and maintain equipment to measure and record the ambient temperature at the site on an hourly basis in accordance with 40 CFR 60, Subpart KKKK.
- 9) The permittee shall install, calibrate, operate and maintain equipment to measure and record the quantity of natural gas combusted in each combustion turbine (EU 1 through EU 6) in accordance with 40 CFR 60, Subpart KKKK.
 - a) The gross calorific value of the fuel shall be determined monthly using the procedures in 40 CFR 75, Appendix F, §5.5.2.
- 10) The permittee shall maintain and operate air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. The manufacturer's recommended Operations and Maintenance (O&M) procedures, or a site-specific O&M procedure (developed from the manufacturer's recommended O&M procedures), shall be followed to assure proper operation and maintenance of the equipment. The permittee shall have the O&M procedures available on site and provide the Department with a copy when requested.
- 11) The permittee shall monitor the total sulfur content of the fuel being fired in each turbine, except as provided in §60.4365.
 - a) The sulfur content of the fuel must be determined using methods described in §60.4415, in accordance with 40 CFR 60, Subpart KKKK.
 - 1) Alternatively, if the total sulfur content of a gaseous fuel during the most recent performance test was less than half the applicable limit, ASTM D4084, D4810, D5504, or D6228, or Gas Processors Association Standard 2377, may be used.

- 12) Emission Units 4 through 6: For consistent chemical composition fuels that result in a consistent CO₂ emission rate of 160 lb/10⁶ Btu or less, purchase records for permitted fuels shall be maintained.

5. **Recordkeeping Requirements:**

- A. The permittee shall maintain compliance monitoring records as outlined in the Monitoring Records table that include the following information.
 - 1) The date, place (as defined in the permit) and time of sampling or measurement.
 - 2) The date(s) testing was performed.
 - 3) The company, entity, or person that performed the testing.
 - 4) The testing techniques or methods used.
 - 5) All stack tests results including field data, laboratory analysis data, and quality assurance data.
 - 6) The operating conditions that existed at the time of sampling or measurement.
 - 7) The results of all visible emissions observations and any corrective actions taken.
 - 8) All continuous emission monitoring data required by this permit, 40 CFR 60 and 40 CFR 75.
 - 9) The occurrence of any startup or shutdown (turbines).
 - 10) Ambient temperatures on an hourly basis.
 - 11) Generator gross energy output (MWe).
 - 12) Amount of natural gas combusted in EU 1 through EU 6.
 - 13) Fuel gross calorific values.

Applicable Requirements: NDAC 33.1-15-12, NDAC 33.1-15-14-02.9.d, NDAC 33.1-15-14-06.5.a(3)(b)[1], ACP-17720 v1.0 and ACP-17967 v1.0

Monitoring Records

Emission Unit Description	Pollutant/ Parameter	Compliance Monitoring Record
Combustion turbines (EU 1 through EU 6)	CPM & PM ₁₀ /PM _{2.5}	O&M and Type of Fuel Usage Data
	NO _x /Oxygen	CEMS Data and O&M Data
	SO ₂	Recordkeeping/Testing of Sulfur Content of Fuel
	CO	CEMS Data and O&M Data
	Opacity	Type of Fuel Usage Data
Combustion turbines (EU 4 through EU 6)	CO ₂	O&M Data and Type of Fuel Usage Data/Heat Input-Based Calculations (as applicable)

B. In addition to requirements outlined in Condition 5.A, recordkeeping shall be in accordance with the following applicable requirements of NDAC 33.1-15-12-02 and NDAC 33.1-15-21:

- 1) NDAC 33.1-15-12-02, Subpart A, §60.7, Notification and Recordkeeping.
- 2) NDAC 33.1-15-12-02, Subpart TTTT, §60.5550 and §60.5560, Notification and Records
- 3) NDAC 33.1-15-21-09, Recordkeeping Requirements.

Applicable Requirements: NDAC 33.1-15-12 and NDAC 33.1-15-21

C. The permittee shall retain records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sampling, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings/computer printouts of continuous monitoring instrumentation, and copies of all reports required by the permit.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(3)(b)[2]

6. **Reporting:**

A. Reporting shall be in accordance with the following applicable requirements of NDAC 33.1-15-12-02 and NDAC 33.1-15-21:

- 1) NDAC 33.1-15-12-02, Subpart A, §60.7, Notification and Recordkeeping.
- 2) NDAC 33.1-15-12-02, Subpart KKKK, §60.4375 through §60.4395, Reporting.

- 3) NDAC 33.1-15-12-02, Subpart TTTT, §60.5555, Reporting.
- 4) NDAC 33.1-15-21-09, Reporting Requirements.
- 5) Quarterly excess emission reports for EU 1 through EU 6 shall be submitted by the 30th day following the end of each 3-month period. Excess emissions are defined as emission rates which exceed the emission limits established for EU 1 through EU 6. Excess emissions shall be reported for the following:

Emission Unit	Parameter	Averaging Period
Combustion	NO _x (5.0 ppmvd)	4-hour rolling average
Turbines (EU 1 through EU 6)	NO _x (25 ppmvd or 1.2 lb/MWh of useful output; 96 ppmvd or 4.7 lb/MWh of useful output)	4-hour rolling average
	NO _x (lb/hr) for EU 1 through EU 5	1-hour block average
	NO _x (lb/hr) for EU 6	30-day rolling average
	CO (ppmvd) for EU 1 through EU 5	8-hour rolling average
	CO (lb/hr) for EU 6	30-day rolling average

Applicable Requirements: ACP-17967 v1.0, NDAC 33.1-15-12-02, Subpart KKKK and NDAC 33.1-15-21-09

- B. The permittee shall submit a semi-annual monitoring report for all monitoring records required under Condition 5 in a format provided or approved by the Department. All instances of deviations from the permit must be identified in the report. A monitoring report shall be submitted within 45 days after June 30 and December 31 of each year.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(3)(c)[1] and [2]

- C. The permittee shall submit an annual compliance certification report in accordance with NDAC 33.1-15-14-06.5.c(5) within 45 days after December 31 of each year in a format provided or approved by the Department.

Applicable Requirement: NDAC 33.1-15-14-06.5.c(5)

- D. For emission units where the method of compliance monitoring is demonstrated by an EPA Test Method or a portable analyzer test, the test report shall be submitted to the Department within 60 days after completion of the test.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(6)(e)

- E. The permittee shall submit an annual emission inventory report (AEIR) in a format provided or approved by the Department. This report shall be submitted by March 15 of each year. Insignificant units/activities listed in this permit do not need to be included in the report.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(7) and NDAC 33.1-15-23-04

7. **Facility Wide Operating Conditions:**

A. **Ambient Air Quality Standards:**

- 1) Particulate and gases. The permittee shall not emit air contaminants in such a manner or amount that would violate the standards of ambient air quality listed in Table 1 of NDAC 33.1-15-02, external to buildings, to which the general public has access.
- 2) Radioactive substances. The permittee shall not release into the ambient air any radioactive substances exceeding the concentrations specified in NDAC 33.1-10.
- 3) Other air contaminants. The permittee shall not emit any other air contaminants in concentrations that would be injurious to human health or well-being or unreasonably interfere with the enjoyment of property or that would injure plant or animal life.
- 4) Disclaimer. Nothing in any other part or section of this permit may in any manner be construed as authorizing or legalizing the emission of air contaminants in such manner that would violate the standards in Paragraphs 1), 2) and 3) of this condition.

Applicable Requirements: NDAC 33.1-15-02-04 and 40 CFR 50.1(e)

B. **Fugitive Emissions:** The release of fugitive emissions shall comply with the applicable requirements in NDAC 33.1-15-17.

Applicable Requirement: NDAC 33.1-15-17

C. **Open Burning:** The permittee may not cause, conduct, or permit open burning of refuse, trade waste, or other combustible material, except as provided for in Section 33.1-15-04-02 and may not conduct, cause, or permit the conduct of a salvage operation by open burning. Any permissible open burning under NDAC 33.1-15-04-02 must comply with the requirements of that section.

Applicable Requirement: NDAC 33.1-15-04

D. **Asbestos Renovation or Demolition:** Any asbestos renovation or demolition at the facility shall comply with emission standard for asbestos in NDAC 33.1-15-13.

Applicable Requirement: NDAC 33.1-15-13-02

E. **Requirements for Organic Compounds Gas Disposal:**

- 1) Any organic compounds, gases and vapors which are generated as wastes as the result of storage, refining or processing operations and which contain hydrogen sulfide shall be incinerated, flared or treated in an equally effective manner before being released into the ambient air.

- 2) Each flare must be equipped and operated with an automatic ignitor or a continuous burning pilot.

Applicable Requirement: NDAC 33.1-15-07-02

- F. **Rotating Pumps and Compressors:** All rotating pumps and compressors handling volatile organic compounds must be equipped and operated with properly maintained seals designed for their specific product service and operating conditions.

Applicable Requirement: NDAC 33.1-15-07-01.5

- G. **Shutdowns/Malfunction/Continuous Emission Monitoring System Failure:**

- 1) **Maintenance Shutdowns.** In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Department at least 24 hours prior to the planned shutdown provided that the air contaminating source will be operated while the control equipment is not in service. Such prior notice shall include the following:
 - a) Identification of the specific facility to be taken out of service as well as its location and permit number.
 - b) The expected length of time that the air pollution control equipment will be out of service.
 - c) The nature and estimated quantity of emissions of air pollutants likely to be emitted during the shutdown period.
 - d) Measures, such as the use of off-shift labor and equipment, that will be taken to minimize the length of the shutdown period.
 - e) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance period.
 - f) Nothing in this subsection shall in any manner be construed as authorizing or legalizing the emission of air contaminants in excess of the rate allowed by this article or a permit issued pursuant to this article.

Applicable Requirement: NDAC 33.1-15-01-13.1

- 2) **Malfunctions.**
 - a) When a malfunction in any installation occurs that can be expected to last longer than 24 hours and cause the emission of air contaminants in violation of this article or other applicable rules and regulations, the person responsible for such installation shall notify the Department of such malfunction as soon as possible

during normal working hours. The notification must contain a statement giving all pertinent facts, including the estimated duration of the breakdown. The Department shall be notified when the condition causing the malfunction has been corrected.

- b) Immediate notification to the Department is required for any malfunction that would threaten health or welfare or pose an imminent danger. During normal working hours the Department can be contacted at 701-328-5188. After hours the Department can be contacted through the 24-hour state radio emergency number 1-800-472-2121. If calling from out of state, the 24-hour number is 701-328-9921.
- c) Unavoidable Malfunction. The owner or operator of a source who believes any excess emissions resulted from an unavoidable malfunction shall submit a written report to the Department which includes evidence that:
 - [1] The excess emissions were caused by a sudden, unavoidable breakdown of technology that was beyond the reasonable control of the owner or operator.
 - [2] The excess emissions could not have been avoided by better operation and maintenance, did not stem from an activity or event that could have been foreseen and avoided, or planned for.
 - [3] To the extent practicable, the source maintained and operated the air pollution control equipment and process equipment in a manner consistent with good practice for minimizing emissions, including minimizing any bypass emissions.
 - [4] Any necessary repairs were made as quickly as practicable, using off-shift labor and overtime as needed and possible.
 - [5] All practicable steps were taken to minimize the potential impact of the excess emissions on ambient air quality.
 - [6] The excess emissions are not part of a recurring pattern that may have been caused by inadequate operation or maintenance, or inadequate design of the malfunctioning equipment.

The report shall be submitted within 30 days of the end of the calendar quarter in which the malfunction occurred or within 30 days of a written request by the Department, whichever is sooner.

The burden of proof is on the owner or operator of the source to provide sufficient information to demonstrate that an unavoidable equipment malfunction occurred. The Department may elect not to pursue enforcement action after considering whether excess emissions resulted from an unavoidable equipment malfunction.

The Department will evaluate, on a case-by-case basis, the information submitted by the owner or operator to determine whether to pursue enforcement action.

Applicable Requirement: NDAC 33.1-15-01-13.2

- 3) Continuous Emission Monitoring System Failures. When a failure of a continuous emission monitoring system occurs, an alternative method for measuring or estimating emissions must be undertaken as soon as possible. The owner or operator of a source that uses an alternative method shall have the burden of demonstrating that the method is accurate. Timely repair of the emission monitoring system must be made. The provisions of this subsection do not apply to sources that are subject to monitoring requirements in Chapter 33.1-15-21 (40 CFR 75, Acid Rain Program).

Applicable Requirement: NDAC 33.1-15-01-13.3

H. **Noncompliance Due to an Emergency:** The permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:

- 1) An emergency occurred, and that the permittee can identify the cause(s) of the emergency;
- 2) The permitted facility was at the time being properly operated;
- 3) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
- 4) The permittee submitted notice of the emergency to the Department within one working day of the time when emission limitations were exceeded longer than 24-hours due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Those emergencies not reported within one working day, as well as those that were, will be included in the semi-annual report.

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

Technology-based emission limits are those established on the basis of emission reductions achievable with various control measures or process changes (e.g., a New Source Performance Standard) rather than those established to attain a health-based air quality standard.

An “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of this source, including acts of God, which requires immediate corrective action to restore normal operation, and that causes this source to exceed a technology-based emission limitation under this permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly

designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

Applicable Requirement: NDAC 33.1-15-14-06.5.g

- I. **Air Pollution from Internal Combustion Engines:** The permittee shall comply with all applicable requirements of NDAC 33.1-15-08-01 – Internal Combustion Engine Emissions Restricted.

Applicable Requirement: NDAC 33.1-15-08-01

- J. **Prohibition of Air Pollution:**

- 1) The permittee shall not permit or cause air pollution, as defined in NDAC 33.1-15-01-04.
- 2) Nothing in any other part of this permit or any other regulation relating to air pollution shall in any manner be construed as authorizing or legalizing the creation or maintenance of air pollution.

Applicable Requirement: NDAC 33.1-15-01-15

- K. **Performance Tests:**

- 1) The Department may reasonably require the permittee to make or have made tests, at a reasonable time or interval, to determine the emission of air contaminants from any source, for the purpose of determining whether the permittee is in violation of any standard or to satisfy other requirements of NDCC 23.1-06. All tests shall be made, and the results calculated in accordance with test procedures approved or specified by the Department including the North Dakota Department of Environmental Quality Emission Testing Guideline. All tests shall be conducted by reputable, qualified personnel. The Department shall be given a copy of the test results in writing and signed by the person responsible for the tests.
- 2) The Department may conduct tests of emissions of air contaminants from any source. Upon request of the Department, the permittee shall provide necessary and adequate access into stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emission of air contaminants.

Applicable Requirement: NDAC 33.1-15-01-12

- 3) Except for sources subject to 40 CFR 63, the permittee shall notify the Department by submitting a Proposed Test Plan, or its equivalent, at least 30 calendar days in advance of any tests of emissions of air contaminants required by the Department. The permittee shall notify the Department at least 60 calendar days in advance of any performance testing required under 40 CFR 63, unless otherwise specified by the subpart. If the permittee is

unable to conduct the performance test on the scheduled date, the permittee shall notify the Department as soon as practicable when conditions warrant and shall coordinate a new test date with the Department.

Failure to give the proper notification may prevent the Department from observing the test. If the Department is unable to observe the test because of improper notification, the test results may be rejected.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(3)(a), NDAC 33.1-15-12-02 Subpart A (40 CFR 60.8), NDAC 33.1-15-13-01.2 Subpart A (40 CFR 61.13), NDAC 33.1-15-22-03 Subpart A (40 CFR 63.7)

- L. **Pesticide Use and Disposal:** Any use of a pesticide or disposal of surplus pesticides and empty pesticide containers shall comply with the requirements in NDAC 33.1-15-10.

Applicable Requirements: NDAC 33.1-15-10-01 and NDAC 33.1-15-10-02

- M. **Air Pollution Emergency Episodes:** When an air pollution emergency episode is declared by the Department, the permittee shall comply with the requirements in NDAC 33.1-15-11.

Applicable Requirements: NDAC 33.1-15-11-01 through NDAC 33.1-15-11-04

- N. **Stratospheric Ozone Protection:** The permittee shall comply with any applicable standards for recycling and emissions reduction pursuant to 40 CFR 82, Subpart F, except as provided for MVACs in Subpart B:

- 1) Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to Section 82.156.
- 2) Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to Section 82.158.
- 3) Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to Section 82.161.
- 4) Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to Section 82.156.

Applicable Requirement: 40 CFR 82

- O. **Chemical Accident Prevention:** The permittee shall comply with all applicable requirements of Chemical Accident Prevention pursuant to 40 CFR 68. The permittee shall comply with the requirements of this part no later than the latest of the following dates:

- 1) Three years after the date on which a regulated substance is first listed under this part; or

- 2) The date on which a regulated substance is first present above a threshold quantity in a process.

Applicable Requirement: 40 CFR 68

- P. **Air Pollution Control Equipment:** The permittee shall maintain and operate air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. The manufacturer's recommended Operations and Maintenance (O&M) procedures, or a site-specific O&M procedure developed from the manufacturer's recommended O&M procedures, shall be followed to assure proper operation and maintenance of the equipment. The permittee shall have the O&M procedures available onsite and provide the Department with a copy when requested.

Applicable Requirement: NDAC 33.1-15-14-06.5.b(1)

- Q. **Prevention of Significant Deterioration of Air Quality** (40 CFR 52.21 as incorporated by NDAC Chapter 33.1-15-15): If this facility is classified as a major stationary source under the Prevention of Significant Deterioration of Air Quality (PSD) rules, a Permit to Construct must be obtained from the Department for any project which meets the definition of a "major modification" under 40 CFR 52.21(b)(2).

If this facility is classified as a major stationary source under the PSD rules and the permittee elects to use the method specified in 40 CFR 52.21(b)(41)(ii)(a) through (c) for calculating the projected actual emissions of a proposed project, then the permittee shall comply with all applicable requirements of 40 CFR 52.21(r)(6).

Applicable Requirement: NDAC 33.1-15-15-01.2

8. **General Conditions:**

- A. **Annual Fee Payment:** The permittee shall pay an annual fee, for administering and monitoring compliance, which is determined by the actual annual emissions of regulated contaminants from the previous calendar year. The Department will send a notice, identifying the amount of the annual permit fee, to the permittee of each affected installation. The fee is due within 60 days following the date of such notice. Any source that qualifies as a "small business" may petition the Department to reduce or exempt any fee required under this section. Failure to pay the fee in a timely manner or submit a certification for exemption may cause this Department to initiate action to revoke the permit.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(7) and NDAC 33.1-15-23-04

- B. **Permit Renewal and Expiration:** This permit shall be effective from the date of its issuance for a fixed period of five years. The permittee's right to operate this source terminates with the expiration of this permit unless a timely and complete renewal application is submitted at least six months, but no more than 18 months, prior to the date of permit expiration. The Department shall approve or disapprove the renewal application within 60 days of receipt. Unless the Department

requests additional information or otherwise notifies the applicant of incompleteness, the application shall be deemed complete. For timely and complete renewal applications for which the Department has failed to issue or deny the renewal permit before the expiration date of the previous permit, all terms and conditions of the permit, including any permit shield previously granted shall remain in effect until the renewal permit has been issued or denied. The application for renewal shall include the current permit number, description of any permit revisions and off-permit changes that occurred during the permit term, and any applicable requirements that were promulgated and not incorporated into the permit during the permit term.

Applicable Requirements: NDAC 33.1-15-14-06.4 and NDAC 33.1-15-14-06.6

- C. **Transfer of Ownership or Operation:** This permit may not be transferred except by procedures allowed in Chapter 33.1-15-14 and is to be returned to the Department upon the destruction or change of ownership of the source unit(s), or upon expiration, suspension or revocation of this permit. A change in ownership or operational control of a source is treated as an administrative permit amendment if no other change in the permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department.

Applicable Requirement: NDAC 33.1-15-14-06.6.d

- D. **Property Rights:** This permit does not convey any property rights of any sort, or any exclusive privilege.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(6)(d)

- E. **Submissions:**

- 1) Reports, test data, monitoring data, notifications, and requests for renewal shall be submitted to the Department using a format provided or approved by the Department. Physical submittals shall be submitted to:

North Dakota Department of Environmental Quality
Division of Air Quality
4201 Normandy Street, 2nd Floor
Bismarck, ND 58503-1324

- 2) Any application form, report or compliance certification submitted shall be certified as being true, accurate, and complete by a responsible official.

Applicable Requirement: NDAC 33.1-15-14-06.4.d

- F. **Right of Entry:** Any duly authorized officer, employee or agent of the North Dakota Department of Environmental Quality may enter and inspect any property, premise or place listed on this permit or where records are kept concerning this permit at any reasonable time for the purpose of ascertaining the state of compliance with this permit and the North Dakota Air Pollution Control Rules. The Department may conduct tests and take samples of air contaminants, fuel, processing material, and other materials which affect or may affect emissions of air contaminants from any

source. The Department shall have the right to access and copy any records required by the Department's rules and to inspect monitoring equipment located on the premises.

Applicable Requirements: NDAC 33.1-15-14-06.5.c(2) and NDAC 33.1-15-01-06

- G. **Compliance:** The permittee must comply with all conditions of this permit. Any noncompliance with a federally-enforceable permit condition constitutes a violation of the Federal Clean Air Act. Any noncompliance with any State enforceable condition of this permit constitutes a violation of NDCC Chapter 23.1-06 and NDAC 33.1-15. Violation of any condition of this permit is grounds for enforcement action, for permit termination, revocation and reissuance or modification, or for denial of a permit renewal application. Noncompliance may also be grounds for assessment of penalties under the NDCC 23.1-06. 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.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(6)(a) and NDAC 33.1-15-14-06.5.a(6)(b)

- H. **Duty to Provide Information:** The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. This includes instances where an alteration, repair, expansion, or change in method of operation of the source occurs. Upon request, the permittee shall also furnish to the Department copies of records that the permittee is required to keep by this permit, or for information claimed to be confidential, the permittee may furnish such recourse directly to the Department along with a claim of confidentiality. The permittee, upon becoming aware that any relevant facts were omitted, or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. Items that warrant supplemental information submittal include, but are not limited to, changes in the ambient air boundary and changes in parameters associated with emission points (i.e., stack parameters). The permittee shall also provide additional information as necessary to address any requirements that become applicable to the source after the date a complete renewal application was submitted but prior to release of a draft permit.

Applicable Requirements: NDAC 33.1-15-14-06.5.a(6)(e), NDAC 33.1-15-14-06.6.b(3) and NDAC 33.1-15-14-06.4.b

- I. **Reopening for Cause:** The Department will reopen and revise this permit as necessary to remedy deficiencies in the following circumstances:
- 1) Additional applicable requirements under the Federal Clean Air Act become applicable to the permittee with a remaining permit term of three or more years. Such a reopening shall be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the expiration date of this permit.
 - 2) The Department or the United States Environmental Protection Agency determines that this permit contains a material mistake or inaccurate statements were made in establishing the emissions standards or other terms or conditions of this permit.

- 3) The Department or the United States Environmental Protection Agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
- 4) Reopenings shall not be initiated before a notice of intent to reopen is provided to the permittee by the Department at least 30 days in advance of the date that this permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency. Proceedings to reopen and issue this permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of this permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

Applicable Requirement: NDAC 33.1-15-14-06.6.f

- J. **Permit Changes:** The permit may be modified, revoked, reopened, and reissued or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(6)(c)

- K. **Off-Permit Changes:** A permit revision is not required for changes that are not addressed or prohibited by this permit, provided the following conditions are met:

- 1) No such change may violate any term or condition of this permit.
- 2) Each change must comply with all applicable requirements.
- 3) Changes under this provision may not include changes or activities subject to any requirement under Title IV or that are modifications under any provision of Title I of the Federal Clean Air Act.
- 4) A Permit to Construct under NDAC 33.1-15-14-02 has been issued, if required.
- 5) Before the permit change is made, the permittee must provide written notice to both the Department and Air Program (8P-AR), Office of Partnerships & Regulatory Assistance, US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, except for changes that qualify as insignificant activities in Section 33.1-15-14-06. This notice shall describe each change, the date of the change, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result.
- 6) The permittee shall record all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes. The record shall reside at the permittee's facility.

Applicable Requirement: NDAC 33.1-15-14-06.6.b(3)

- L. **Administrative Permit Amendments:** This permit may be revised through an administrative permit amendment, if the revision to this permit accomplishes one of the following:

- 1) Corrects typographical errors.

- 2) Identifies a change in the name, address or phone number of any person identified in this permit or provides a similar minor administrative change at the source.
- 3) Requires more frequent monitoring or reporting by the permittee.
- 4) Allows for a change in ownership or operational control of the source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee has been submitted to the Department.
- 5) Incorporates into the Title V permit the requirements from a Permit to Construct when the review was substantially equivalent to Title V requirements for permit issuance, renewal, reopenings, revisions and permit review by the United States Environmental Protection Agency and affected state review, that would be applicable to the change if it were subject to review as a permit modification and compliance requirements substantially equivalent to Title V requirements for permit content were contained in the Permit to Construct.
- 6) Incorporates any other type of change which the Administrator of the United States Environmental Protection Agency has approved as being an administrative permit amendment as part of the Department's approved Title V operating permit program.

Applicable Requirement: NDAC 33.1-15-14-06.6.d

M. **Minor Permit Modification:** This permit may be revised by a minor permit modification, if the proposed permit modification meets the following requirements:

- 1) Does not violate any applicable requirement.
- 2) Does not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in this permit.
- 3) Does not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
- 4) Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Federal Clean Air Act; and alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Federal Clean Air Act.
- 5) Is not a modification under NDAC 33.1-15-12, 33.1-15-13, and 33.1-15-15 or any provision of Title I of the Federal Clean Air Act.

- 6) Is not required to be processed as a significant modification.

Applicable Requirement: NDAC 33.1-15-14-06.6.e(1)

N. **Significant Modifications:**

- 1) Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing therein shall be construed to preclude the permittee from making changes consistent with this subsection that would render existing permit compliance terms and conditions irrelevant.
- 2) Significant permit modifications shall meet all Title V requirements, including those for applications, public participation, review by affected states, and review by the United States Environmental Protection Agency, as they apply to permit issuance and permit renewal. The Department shall complete review of significant permit modifications within nine months after receipt of a complete application.

Applicable Requirement: NDAC 33.1-15-14-06.6.e(3)

- O. **Operational Flexibility:** The permittee is allowed to make a limited class of changes within the permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit, are not Title I modifications and a Permit to Construct is not required. This class of changes does not include changes that would violate applicable requirements; or changes to federally-enforceable permit terms or conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements.

The permittee is required to send a notice to both the Department and Air Program (8P-AR), Office of Partnerships & Regulatory Assistance, US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, at least seven days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit. Any permit shield provided in this permit does not apply to changes made under this provision.

Applicable Requirement: NDAC 33.1-15-14-06.6.b(2)

- P. **Relationship to Other Requirements:** Nothing in this permit shall alter or affect the following:

- 1) The provisions of Section 303 of the Federal Clean Air Act (emergency orders), including the authority of the administrator of the United States Environmental Protection Agency under that section.
- 2) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

- 3) The ability of the United States Environmental Protection Agency to obtain information from a source pursuant to Section 114 of the Federal Clean Air Act.
- 4) Nothing in this permit shall relieve the permittee of the requirement to obtain a Permit to Construct.

Applicable Requirements: NDAC 33.1-15-14-06.3 and NDAC 33.1-15-14-06.5.f(3)(a), (b) and (d)

- Q. **Severability Clause:** 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.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(5)

- R. **Circumvention:** The permittee shall not cause or permit the installation or use of any device of any means which conceals or dilutes an emission of air contaminants which would otherwise violate this permit.

Applicable Requirement: NDAC 33.1-15-01-08

9. **Acid Rain Provisions:**

Affected Source Unit: Lonesome Creek Station
ORIS Plant Code: 57943
Unit ID: CT-1, CT-2, CT-3, CT-4, CT-5 and CT-6

This section incorporates the definition of terms in NDAC 33.1-15-21 by reference.

A. **Permit Requirements:**

- 1) The designated representative of each affected source and each affected unit at the source shall:
 - a) Submit a complete Acid Rain permit application (including a compliance plan) under 40 CFR 72 in accordance with the deadlines specified in NDAC 33.1-15-21-08.1 and 40 CFR 72.30, including application for permit renewal; and
 - b) Submit in a timely manner any supplemental information that the North Dakota Department of Environmental Quality, Division of Air Quality, determines is necessary in order to review an Acid Rain permit application and issue or deny an Acid Rain permit.
- 2) The owners and operators of each affected source and each affected unit at the source shall:
 - a) Operate the unit in compliance with a complete Acid Rain permit application including any application for permit renewal or a superseding Acid Rain permit issued by the North Dakota Department of Environmental Quality, Division of Air Quality, and

- b) Have an Acid Rain permit.

Applicable Requirement: NDAC 33.1-15-21-08.1

B. Monitoring Requirements:

- 1) The owners and operators and, to the extent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in 40 CFR 75.
- 2) The emissions measurements recorded and reported in accordance with 40 CFR 75 shall be used to determine compliance by the unit with the Acid Rain emissions limitations and emissions reduction requirements for sulfur dioxide under the Acid Rain Program.
- 3) The requirements of 40 CFR 75 shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Federal Clean Air Act and other provisions of the operating permit for the source.

Applicable Requirements: NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09, NDAC 33.1-15-21-10 and 40 CFR 75

C. Sulfur Dioxide Requirements:

- 1) The owners and operators of each source and each affected unit at the source shall:
 - a) Hold allowances, as of the allowance transfer deadline, in the units compliance subaccount (after deductions under 40 CFR 73.34(c)) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and
 - b) Comply with the applicable Acid Rain emissions limitations for sulfur dioxide.
- 2) Each ton of sulfur dioxide emitted in excess of the Acid Rain emissions limitations for sulfur dioxide shall constitute a separate violation of the Federal Clean Air Act.
- 3) An affected unit shall be subject to the requirements under paragraph (1) of the sulfur dioxide requirements as follows:
 - a) Starting January 1, 2000, an affected unit under 40 CFR 72.6(a)(2); or
 - b) Starting on the later of January 1, 2000, or the deadline for monitor certification under 40 CFR 75, an affected unit under 40 CFR 72.6(a)(3).
- 4) Allowances shall be held in, deducted from, or transferred among Allowance Tracking System accounts in accordance with the Acid Rain Program.
- 5) An allowance shall not be deducted in order to comply with the requirements under Condition 10.C.1)a) of this permit prior to the calendar year for which the allowance was allocated.

- 6) An allowance allocated by the Administrator under the Acid Rain Program is a limited authorization to emit sulfur dioxide in accordance with the Acid Rain Program. No provision of the Acid Rain Program, the Acid Rain permit application, this permit, or the written exemption under 40 CFR 72.7 and 72.8 and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.
- 7) An allowance allocated by the Administrator under the Acid Rain Program does not constitute a property right.

Applicable Requirements: NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09, 40 CFR 72 and 73

D. Excess Emissions Requirements:

- 1) The designated representative of an affected unit that has excess emissions of SO₂ in any calendar year shall submit a proposed offset plan, to the Administrator as required under 40 CFR 77, with a copy to the North Dakota Department of Environmental Quality, Division of Air Quality.
- 2) The owners and operators of an affected unit that has excess emissions of SO₂ in any calendar year shall:
 - a) Pay to the Administrator without demand the penalty required, and pay upon demand the interest on that penalty, as required by 40 CFR 77; and
 - b) Comply with the terms of an approved offset plan for SO₂, as required by 40 CFR 77.

Applicable Requirements: NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09 and 40 CFR 77

E. Recordkeeping and Reporting Requirements:

- 1) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on-site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Administrator of the U.S. EPA or the North Dakota Department of Environmental Quality, Division of Air Quality:
 - a) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; provided that the certificate and documents shall be retained on-site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative;
 - b) All emissions monitoring information, in accordance with 40 CFR 75, provided that to the extent that 40 CFR 75 provides for a 3-year period for recordkeeping, the 3-year period shall apply.

- c) Copies of all reports, compliance certifications, and other submissions and all records made or required under the Acid Rain Program; and,
 - d) Copies of all documents used to complete an Acid Rain permit application and any other submission under the Acid Rain Program or to demonstrate compliance with the requirements of the Acid Rain Program.
- 2) The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the Acid Rain Program, including those under 40 CFR 72, Subpart I, NDAC 33.1-15-21-08.1 and 40 CFR 75.

Applicable Requirements: NDAC 33.1-15-21-08.1 and NDAC 33.1-15-21-09

F. Liability:

- 1) Any person who knowingly violates any requirement or prohibition of the Acid Rain Program, a complete Acid Rain permit application, this Acid Rain Permit, or a written exemption under 40 CFR 72.7 or 72.8, including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement pursuant to Section 113(c) of the Federal Clean Air Act.
- 2) Any person who knowingly makes a false, material statement in any record, submission, or report under the Acid Rain Program shall be subject to criminal enforcement pursuant to Section 113(c) of the Federal Clean Air Act and 18 U.S.C. 1001.
- 3) No permit revision shall excuse any violation of the requirements of the Acid Rain Program that occurs prior to the date that the revision takes effect.
- 4) Each affected source and each affected unit shall meet the requirements of the Acid Rain Program.
- 5) Any provision of the Acid Rain Program that applies to an affected source (including a provision applicable to the designated representative of an affected source) shall also apply to the owners and operators of such source and of the affected units at the source.
- 6) Any provision of the Acid Rain Program that applies to an affected unit (including a provision applicable to the designated representative of an affected unit) shall also apply to the owners and operators of such unit.
- 7) Each violation of a provision of NDAC 33.1-15-21-08.1 and NDAC 33.1-15-21-09 and 40 CFR 72, 73, 74, 75, 76 and 77 by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the Federal Clean Air Act.

Applicable Requirements: NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09 and 40 CFR 72, 73, 74, 75, 76 and 77

G. Effect on Other Authorities:

No provision of the Acid Rain Program, an Acid Rain permit application, this Acid Rain permit condition, or a written exemption under 40 CFR 72.7 or 72.8 shall be construed as:

- 1) Except as expressly provided in Title IV of the Federal Clean Air Act, exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the Federal Clean Air Act, including the provisions of Title I of the Federal Clean Air Act relating to applicable National Ambient Air Quality Standards or State Implementation Plans;
- 2) Limiting the number of allowances a unit can hold; provided, that the number of allowances held by the unit shall not affect the source's obligation to comply with any other provisions of the Federal Clean Air Act,
- 3) Requiring a change of any kind in any State law regulating electric utility rates and charges, affecting any State law regarding such State regulation, or limiting such State regulation, including any prudence review requirements under such State law;
- 4) Modifying the Federal Power Act or affecting the authority of the Federal Energy Regulatory Commission under the Federal Power Act; or,
- 5) Interfering with or impairing any program for competitive bidding for power supply in a State in which such program is established.

Applicable Requirement: NDAC 33.1-15-21-08.1

H. Permit Shield:

Each affected unit operating in accordance with this permit which is issued in compliance with Title IV of the Federal Clean Air Act, as provided in NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09 and 40 CFR 73, 77 and 78, and the regulations implementing Section 407 of the Federal Clean Air Act, shall be deemed operating in compliance with the Acid Rain Program, except as provided in 40 CFR 72.9(g)(6). The permit shield does not take effect until the effective date of the acid rain permit.

Applicable Requirements: NDAC 33.1-15-21-08.1, NDAC 33.1-15-21-09 and 40 CFR 73, 77 and 78

I. Reopening for Cause:

In addition to any reasons for reopening for cause previously stated in this permit, the Department will reopen and revise this permit as necessary to remedy deficiencies in the following circumstance: If additional requirements, including excess emissions requirements, become applicable to an affected source under Title IV of the Federal Clean Air Act or the regulations promulgated there under. Upon approval by the administrator of the United States Environmental

Protection Agency, excess emissions offset plans shall be deemed to be incorporated into the permit.

Applicable Requirements: NDAC 33.1-15-14-06.6.f(1)(b)

10. **State Enforceable Only Conditions (not Federally enforceable):**

- A. **General Odor Restriction:** The permittee shall not discharge into the ambient air any objectionable odorous air contaminant which exceeds the limits established in NDAC 33.1-15-16.

Applicable Requirement: NDAC 33.1-15-16