

Air Title V Operating Permit (AOP) - Renewal

version 2.4

(Submission #: HPP-J5RE-E5RJ9, version 1)

Digitally signed by:
CERIS-ND
Date: 2022.12.02 11:25:01 -06:00
Reason: Submission Data
Location: State of North Dakota

Details

Submission ID HPP-J5RE-E5RJ9

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-28383

Permit Version

4

Issue Date

11/20/2018

Expiration Date

06/09/2023

Permittee

Company Name

Hebron Brick Company

Address

P.O. Box S, 1000 Washington Avenue E

Hebron, ND 58638

United States

Responsible Official**Prefix**

NONE PROVIDED

First Name Last Name

Randy Wimer

Title

Plant Manager

Phone Type Number Extension

Business 701-212-4493

Email

randyw@hebronco.com

Address

1000 Washington Ave East

Hebron, ND 58638

USA

Contact Person for Air Pollution Matters**Prefix**

NONE PROVIDED

First Name Last Name

Randy Wimer

Title

Plant Manager

Phone Type Number Extension

Business 701-212-4493

Email

randyw@hebronco.com

Address

1000 Washington Ave East

Hebron, ND 58638

USA

Section B (Part 1) - Facility Information**Facility Name**

Hebron Brick Company - Hebron Brick Plant

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?

No

Is this a portable source?

No

Facility Location

1000 Washington Avenue East

Hebron, ND 58638

United States

County

Morton

Facility Location:

46.90334400000000,-102.03685000000000

Section B (Part 2) - Additional Location Information**Legal Description of Facility Site**

Qtr Qtr	Qtr	Section	Township	Range
NE	NE	33	140N	90W

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

42 acres

MSL elevation at facility

2165 ft

Section C - Nature of Business**General Nature of Business**

Describe Nature of Business	NAICS Code	SIC Code
brick manufacturing	327120	3251

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

NONE PROVIDED

Comment

NONE PROVIDED

Section F - Facility-Wide Applicable Regulations and Potential to Emit (PTE)**Applicable Federal Air Programs**

Program Code
MACT Standards (40 CFR Part 63)

MACT Air Program Subparts

Subpart
Subpart JJJJJ - BRICK & STRUCTURAL CLAY PRODUCTS MANUFACTURING

Applicable State Regulations

Regulation
33.1-15-02-04. Ambient air quality standards.
33.1-15-03-01. Visible Emissions. Restrictions applicable to existing installations.
33.1-15-05-01.2. Restriction of emission of particulate matter from industrial processes. Emission Limitations.
33.1-15-06-02.2. Restriction of emissions of sulfur oxides from industrial processes. Concentration of sulfur compounds in emissions restricted.
33.1-15-16-02. Emissions of Odorous Substances Restricted.
33.1-15-22. Emissions Standards for Hazardous Air Pollutants for Source Categories.

Potential to Emit (PTE)

Pollutant	Tons Per Year Without Fugitives	Tons Per Year With Fugitives
NOx	19.1	19.1
CO	64.4	64.4
VOCs	2.3	2.3
SO2	0	0
PM	0	0
PM10	0	0
PM2.5	0	0
Total HAPs	0	0

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

NONE PROVIDED

Comment

NONE PROVIDED

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 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

[T5M03001_3_0-redline.docx - 12/02/2022 10:47 AM](#)

Comment

Added F and G to section 7.

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

[AOP renewal 2022.pdf - 12/02/2022 10:45 AM](#)

Comment

NONE PROVIDED

Additional Forms

NONE PROVIDED

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 Randy Wimer on 12/02/2022 at 11:15 AM



TITLE V PERMIT TO OPERATE - RENEWAL APPLICATION

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
SFN 52824 (9-2021)

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 herein is supplied. The current Title V permit will be the baseline reference for this 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) enclose 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) enclose 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 NO_x Compliance Plan, and if applicable, the Phase II NO_x Averaging Plan).

PART 1. GENERAL APPLICATION INFORMATION

Owner's Name	Hebron Brick		
Facility Name	Manufacturing Plant		
Name of Person Completing Application	Randy Wimer	Phone	(701) 878-4428
Title	Plant Manager	Email	randyw@hebronco.com
Current Operating Permit Number	AOP-28383 v4.0		
Expiration Date of Current Operating Permit	06	/	09 / 2023

PART 2. COMPLIANCE CERTIFICATION

A. Schedule for Submission of Compliance Certifications During the Term of the Permit

Frequency of Submittal annual	Date Beginning (month/day/year) 06/10/2023
----------------------------------	---

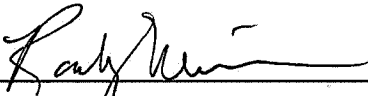
B. Statement of Compliance with Compliance Assurance Monitoring (CAM) and Compliance Certification Requirements

The facility identified in this application is in compliance with applicable monitoring and compliance certification requirements.	
<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No - Describe below which requirements are not being met:
<input type="checkbox"/>	CAM not applicable

C. Certification of Compliance with all Applicable Requirements

This certification must be signed by a "responsible official" as defined in NDAC 33.1-15-14-06.1. Forms without a signed certification will be returned as incomplete.

Except for requirements identified in Compliance Schedule and Plan (Section G) of Title V Permit to Operate application forms for which compliance is not achieved, I hereby certify that, based on information and belief formed after reasonable inquiry, the air contaminant source identified in this form is in compliance with all applicable requirements.

Signed 	Date 12/01/2022
Typed Name Randy Wimer	

PART 3. STATUS OF SOURCE

Has there been any change to the source since the most recent initial or renewal permit application, minor permit modification, significant modification or administrative permit amendment?

No Yes

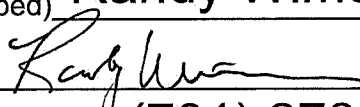
If yes, complete and submit appropriate sections of Title V Permit to Operate application forms.

PART 4. CERTIFICATION OF TRUTH, ACCURACY AND COMPLETENESS

Note: This certification must be signed by a "responsible official" as defined in NDAC 33.1-15-14-06.1. Applications without a signed certification will be returned as incomplete.

I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this application are true, accurate and complete.

Name (typed) **Randy Wimer**

(Signed)  Date **12** / **01** / **2022**

Telephone Number **(701) 878-4428**

Send original renewal application to:

North Dakota Department of Environmental Quality
 Division of Air Quality
 4201 Normandy Street, 2nd Floor
 Bismarck, ND. 58503-1324
 (701)328-5188

Send copy of renewal application to:

Air Program (8P-AR)
 Office of Partnerships & Regulatory Assistance
 US EPA Region 8
 1595 Wynkoop Street
 Denver, CO 80202-1129

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

Permittee: Name: Hebron Brick Company Address: 1000 Washington Avenue E Hebron, ND 58638-0449	Permit Number: T5-M03001
	Source Name: Hebron Brick Plant
Source Location: 1000 Washington Avenue E Hebron, North Dakota Morton County	Source Type: Brick Manufacturing
Expiration Date: June 9, 2023.1	

Pursuant to Chapter 23.1-06 of the North Dakota Century Code, 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 Health 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 No. 3: _____
Revision No. 0: _____

Terry L. O'Clair, P.E.
Director
Division of Air Quality

Hebron Brick Plant
Title V Permit to Operate
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1. **Emission Unit Identification:**

This facility is a brick manufacturing plant producing approximately 45 x 10⁶ bricks per year with a maximum design production rate of 9.56 tons/hour, and thus, classified as a small tunnel kiln per §63.8390(b)(1). The emission units regulated by this permit are as follows:

Emission Unit Description	Emission Unit (EU)	Emission Point (EP)	Air Pollution Control Equipment
Natural gas-fired (855.3 x 10 ⁶ Btu/hr) tunnel kiln	TK-1	S-1 S-5*	None
18 car natural gas-fired (3.5 x 10 ⁶ Btu/hr) heat brick dryer	Dryer #1	S-2	None
18 car natural gas-fired (3.5 x 10 ⁶ Btu/hr) heat brick dryer	Dryer #2	S-3	None
43 car holding/warming room	WR-1	S-4**	None
18 car pre-drying room	Pre-Dryer	S-6**	None

* Waste heat recovery stack (insignificant emissions)

** Insignificant or fugitive emission sources (no specific emission limit)

2. **Fuel Restrictions:**

All fuel burning emission units (EUs TK-1, Dryer #1, Dryer #2, WR-1 and Pre-Dryer) are restricted to combusting only pipeline quality natural gas containing no more than 2 grains of sulfur per 100 standard cubic feet.

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

3. **Applicable Standards and Miscellaneous Conditions:**

A. Maximum Achievable Control Technology Standards (MACT): The permittee shall comply with the following NDAC 33.1-15-22-03 and 40 CFR 63 Subparts in addition to complying with Subpart A-General Provisions.

- 1) Subpart JJJJ - National Emissions Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing (EU TK-1). The North Dakota Department of Health has not adopted this subpart. Please send all documentation to EPA at the following address:

U.S. EPA Region 8
1595 Wynkoop Street
Mail Code 8ENF-AT
Denver, CO 80202-1129

Applicable Requirements: NDAC 33.1-15-22-03, Subpart A and 40 CFR 63, Subpart JJJJ

- B. Tunnel Kiln Stack Height: Emissions from the Tunnel Kiln (EU TK-1) shall be vented from a minimum stack height of 60 feet.

Applicable Requirement: NDAC 33.1-15-02-04

4. **Emission Unit Limits:**

Emission Unit Description	EU	EP	Pollutant/Parameter	Emission Limit	NDAC Applicable Requirement
Tunnel kiln	TK-1	S-1	Particulate Matter (PM)	18.5 lb/hr	Permit to Construct PTC04008
			Mercury (Hg)	3.3 x 10 ⁻⁴ lb/ton or 0.0019 lb/hr or 91 µg/dscm (@ 17% O ₂)	40 CFR 63, Subpart JJJJ
			Non-Hg Metals	0.37 lb/ton* or 0.0021 gr/scf* (@17% O ₂) or 0.11 lb/hr non-Hg HAP metals	40 CFR 63, Subpart JJJJ
			Acid Gases (HF, HCl, Cl ₂)	57 lb/hr HCl-equivalent	40 CFR 63, Subpart JJJJ
			SO ₂	55.0 lb/hr	33.1-15-02-4
			Opacity	20% **	33.1-15-03-02
Heat brick dryer #1	Dryer #1	S-2	PM	18.5 lb/hr	PTC04008
			Opacity	20% **	33.1-15-03-02
Heat brick dryer #2	Dryer #2	S-3	PM	18.5 lb/hr	PTC04008
			Opacity	20% **	33.1-15-03-02

- * Values are for particulate matter (PM) which may be used as a surrogate for non-Hg HAP metals.
- ** 40% opacity is permissible for not more than one six-minute period per hour.

5. **Monitoring Requirements and Conditions:**

A. **Requirements:**

Emission Unit Description	Pollutant/Parameter	Monitoring Requirement (Method)	Condition Number	NDAC Applicable Requirement
TK-1 (Tunnel Kiln) (EP S-1)	Particulate Matter (PM)	Visible Emissions Evaluation (VEO) & Operation and Maintenance (O&M)	5.B.2 & 5.B.3	33.1-15-14-06.5.a.(3)(a)
	Mercury (Hg)	Emissions Test	5.B.7	40 CFR 63, Subpart JJJJ
	Non-Hg Metals	Emissions Test	5.B.7	40 CFR 63, Subpart JJJJ
	Acid Gases (HF, HCl, Cl ₂)	Emissions Test	5.B.7	40 CFR 63, Subpart JJJJ
	SO ₂	Emissions Test & Mass Balance Analysis	5.B.4 & 5.B.5	33.1-15-14-06.5.a.(3)(a)
	Opacity	VEO & O&M	5.B.1, 5.B.2 & 5.B.3	33.1-15-14-06.5.a.(3)(a)
	Production	Production Report	5.B.6	33.1-15-14-06.5.a.(3)(a)
Dryer #1 (EP S-2)	Opacity/ PM	VEO & O&M	5.B.2 & 5.B.3	33.1-15-14-06.5.a.(3)(a)
Dryer #2 (EP S-3)	Opacity/ PM	VEO & O&M	5.B.2 & 5.B.3	33.1-15-14-06.5.a.(3)(a)

B. Monitoring Conditions:

- 1) Once per month, the permittee shall conduct a formal visible emissions evaluation of the emission point to determine if emissions are in compliance with the applicable opacity standard. Opacity readings shall consist of three consecutive 6-minute periods, using EPA Reference Method 9 and conducted by a certified visible emissions reader and readings shall begin when commencing the “flashing” operation.
- 2) Once per month in which the emission unit is operated, the permittee shall observe the emission point. If no visible emissions are observed, the date and time shall be recorded.

If visible emissions are observed, the permittee must investigate the problem within eight hours. Any problems that are discovered must be corrected as soon as possible. If correction of the problem is expected to take longer than 24 hours, the permittee shall follow procedures as outlined in Condition 8.G. Following corrective maintenance, a visible emissions observation shall be made.

All investigations of malfunctions and visible emissions shall be recorded. The permittee shall comply with the visible emissions and particulate emission limits in Condition 3 (emission limits) and nothing in this condition shall be construed as authorizing otherwise.

- 3) 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 emission unit. The permittee shall have the O&M procedures available on-site and provide the Department with a copy when requested.
- 4) Once during the first year of the five-year renewal permit period, and when changes are made that may increase emission rates, to provide a reasonable assurance of compliance the permittee shall conduct an emissions test to measure the tunnel kiln SO₂ emissions (EP S-1), using EPA Reference Methods in 40 CFR Part 60, Appendix A. A test shall consist of three runs, with each run at least 20 minutes in length and shall be conducted while processing materials expected to emit the worst-case levels of SO₂.
- 5) Once every six months a representative sample of pre-fired and post-fired bricks will be analyzed via mass balance to determine sulfur loss in the tunnel kiln. The results will be used as the basis for monitoring compliance with the tunnel kiln SO₂ limit. The results of the analysis shall be used to calculate an SO₂ emission kiln rate using the following equation:

$$SO_2 \text{ emission rate } \left(\frac{lb}{hr} \right) = P \times 2S$$

Where:

P = Maximum production rate (in ton/hr) during the previous six-month period.

S = Sulfur loss (in units of pounds of sulfur loss per ton of brick produced).

If an emissions test to measure SO₂ emissions from the tunnel kiln is conducted during the six-month period, then it is not necessary to conduct the analysis required by this condition during the six-month period.

- 6) By the 15th day of each month, the permittee shall record:
 - a) the tunnel kiln (EU TK-1) fired production (in tons) for the previous month and for the previous 12-month period; and
 - b) the tunnel kiln hours of operation for the previous month and for the previous 12-month period.

The tunnel kiln production for the previous 12-month period shall be divided by the tunnel kiln hours of operation for the previous 12-month period to obtain the average [12-month rolling average]. The calculated production rate shall also be recorded by the 15th day of each month for the previous 12-month period.

- 7) Once during the term of a renewal permit or at least five years from when the last test was conducted, and when changes are made that may increase emission rates, to provide a reasonable assurance of compliance the permittee shall conduct an emissions test to measure the tunnel kiln (EP S-1) Acid Gas (HF, HCl, Cl₂), Mercury (Hg), and non-Hg HAP metals (PM may be used as a surrogate for non-Hg HAP metals) using EPA Reference Methods in 40 CFR Part 60, Appendix A per 40 CFR 63, Subpart JJJJJ. A test shall consist of three runs, with each run at least 20 minutes in length and shall be conducted while processing materials expected to emit the worst-case levels of Acid Gases, Mercury (Hg), and non-Hg HAP metals (or PM if used as surrogate). Send documentation to the address listed in Condition No. 3.A.1.

6. 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) The results of such testing.
 - 6) The operating conditions that existed at the time of sampling or measurement.

Applicable Requirement: NDAC 33.1-15-14-06.5.a(3)(b)[1]

Monitoring Records

Emission Unit Description	Pollutant/ Parameter	Compliance Monitoring Record
TK-1 (Tunnel Kiln) (EP S-1)	PM Mercury (Hg) Non-Hg Metals Acid Gases (HF, HCl, Cl ₂) SO ₂ Opacity Production	Visible Emissions Observation (VEO) Readings Stack Test Results Stack Test Results Stack Test Results Emission Calculation or Stack Test Results Visible Emissions Evaluation Readings Production Report
Dryer #1 (EP S-2)	Opacity/PM	VEO Readings
Dryer #2 (EP S-3)	Opacity/PM	VEO Readings

- B. 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]

7. **Reporting:**

- A. The permittee shall submit a semi-annual monitoring report for all monitoring records required under Condition 6 on forms supplied 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]

- B. 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 on forms supplied or approved by the Department.

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

- C. 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)

- D. In accordance with §63.8445 of 40 CFR 63, Subpart JJJJJ, the owner/operator shall conduct emission testing for emission units where the method of compliance monitoring is demonstrated by an EPA Test Method as required by 40 CFR 63, Subpart JJJJJ. All required documentation and test reports shall be submitted to EPA Region 8 at the address listed in Condition No. 3.A.1.

Applicable Requirements: 40 CFR 63, Subparts A and JJJJJ

- E. The permittee shall submit an annual emission inventory report on forms supplied 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 33.1-15-23.1-04

- F. The permittee shall include in the semi-annual monitoring report the condition of the Tunnel Kiln Stack (S-1).

- G. The permittee shall notify the Department when the Tunnel Kiln Stack (S-1) is replaced.

8. **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 shutdown 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 Health 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

9. **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 33.1-15-23.1-04

- 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:

North Dakota Department of Health
Division of Air Quality
918 E Divide Avenue, 2nd Floor
Bismarck, ND 58501-1947

- 2) Any document 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 Health 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)