

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

|  |   |
|--|---|
| <b>Permittee:</b><br><b>Name:</b><br>ONEOK Rockies Midstream, L.L.C.<br><br><b>Address:</b><br>100 West Fifth Street<br>Tulsa, OK 74103-4298                     | <b>Permit Number:</b><br>AOP-28518 v1.1<br><br><b>Source Name:</b><br>Antelope Compressor Station |
| <b>Source Location:</b><br>County Road 6<br>New Town, North Dakota 58763<br>NW ¼, Sec. 12, T 152N, R 94W<br>Lat. 48.002889, Long. -102.661667<br>McKenzie County | <b>Source Type:</b><br>Compressor Station   |
| <b>Expiration Date:</b><br>March 15, 2028  |   |

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.

Initial: 3/15/23  
 Revision (Sig. Mod.): TBD

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 James L. Semerad  
 Director  
 Division of Air Quality

**Antelope Compressor Station**  
Title V Permit to Operate  
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1. **Emission Unit Identification:**

The emission units regulated by this permit are as follows:

**Table 1.1 Emission Unit Identification**

| <b>Emission Unit Description <sup>A</sup></b>   | <b>Emission Unit (EU)</b>                  | <b>Emission Point (EP)</b> | <b>Air Pollution Control Equipment</b>                 |
|---|--|----------------------------|--|
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-1  | C-1                        | Oxidation Catalyst                                     |
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-2  | C-2                        | Oxidation Catalyst                                     |
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-3  | C-3                        | Oxidation Catalyst                                     |
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-4  | C-4                        | Oxidation Catalyst                                     |
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-5  | C-5                        | Oxidation Catalyst                                     |
| Caterpillar G3608 LE (4SLB) natural gas-fired compressor engine rated at 2,370 bhp (NSPS JJJJ, OOOOa; NESHAP/MACT ZZZZ) | C-6  | C-6                        | Oxidation Catalyst                                     |
| Ten 400-barrel condensate tanks   | T-1 <sup>B</sup> through T-10 <sup>B</sup> | VRU                        | Vapor Recovery Unit (VRU) & Submerged Fill Pipes (SFP) |
| Two 400-barrel produced water tanks   | WTK-1 <sup>B</sup> & WTK-2 <sup>B</sup>    | WTK-1 & WTK-2              | SFP  |
| 400-barrel LACT divert tank   | LTK-1 <sup>B</sup>                         | LTK-1                      | VRU  |
| 400-barrel methanol tank  | MTK-1 <sup>B</sup>                         | MTK-1                      | SFP  |
| Condensate truck loading  | TL-1 <sup>B</sup>                          | TL-1                       | None   |
| Low pressure (LP) flare   | FL-2                                       | FL-2                       | None   |
| Fugitive emissions (NSPS OOOOa)   | FUG <sup>B</sup>                           | FUG                        | Leak Detection and Repair (LDAR) Program               |
| Blowdowns and maintenance venting   | BD <sup>B</sup>                            | BD                         | None   |

<sup>A</sup> Emission Unit ratings are nominal.

<sup>B</sup> Insignificant or fugitive emission sources (no specific emission limit).

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

- A. **Fuel Restrictions:** The engines (EU C-1 through C-6) are restricted to combusting only field gas or natural gas containing no more than 2 grains of sulfur per 100 standard cubic feet.

Applicable Requirement: ACP-17901 v1.1

B. **Flaring Restrictions (EU FL-2):**

- 1) When it is necessary to operate the flare during emergency, malfunction or maintenance, all precautions shall be taken to minimize emissions and maintain compliance with the applicable ambient air quality standards as outlined in NDAC 33.1-15-02 and the opacity standard of 20% not to exceed 60% for more than one six-minute period per hour.
- 2) The flare must be equipped and operated with an automatic ignitor or a continuous burning pilot which must be maintained in good working order as outlined in NDAC 33.1-15-07-02.
- 3) The presence of a flame shall be monitored using a thermocouple or any other equivalent device approved by the Department.

Applicable Requirements: ACP-18250 v1.0 and NDAC 33.1-15-14-06.5.b(1)

C. **Vapor Recovery Unit (VRU) Requirements:**

- 1) The VRU must be designed to sufficiently recover all vapors from the storage vessels (EU T-1 through T-10) (100% recovery is assumed during normal operation).
- 2) When potentially recoverable vapors are generated, the VRU must operate 95% of the time. The remaining time is defined as downtime, not to exceed 5% of the time.

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

D. **Closed Vent System (CVS) Requirements:**

- 1) Must be designed to collect and route all vapors from the storage vessels (EU T-1 through T-10) to the control device (100% collection efficiency is assumed during normal operation).
- 2) Must be operated with no detectable emissions during normal operations, as determined using auditory, visual, and olfactory inspections or optical gas imaging.
- 3) Must be monitored at the same intervals required by the facility Leak Detection and Repair (LDAR) program .

- a) Secure the bypass in the non-diverting position using a car-seal or a lock-and-key configuration; or,
- b) Install a flow indicator at the bypass inlet and maintain and operate it with an alarm system that notifies the nearest field office when the bypass opens and vapors are diverted away from the control device. Records of each time the alarm is activated must be maintained for a period of five years.

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

E. **New Source Performance Standards (NSPS):** 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 JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (EU C-1 through C-6).
- 2) Subpart OOOOa - Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015 and On or Before December 6, 2022 (EU C-1 through C-6 reciprocating compressors and FUG).

Applicable Requirements: NDAC 33.1-15-12-02, Subparts A, JJJJ and OOOOa

F. **National Emission Standards for Hazardous Air Pollutants (NESHAP)/Maximum Achievable Control Technology (MACT):** The permittee shall comply with all applicable requirements of the following NDAC 33.1-15-22-03 and 40 CFR 63 subparts in addition to complying with Subpart A - General Provisions.

- 1) Subpart ZZZZ - National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (EU C-1 through C-6). The North Dakota Department of Environmental Quality has not adopted the area source provisions of this subpart. Please send all documentation in accordance with EPA regulations to U.S. EPA Region 8.

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

G. **Stack Heights:**

- 1) The stack height of each engine shall be at least 1.5 times the nearby building height. A nearby building is any building located a distance of less than five times the building height from the stack.

- 2) The stack height of the flare (EU FL-2) shall be a minimum of 20 ft above ground level. Emissions shall be vented through stacks that meet the following height requirements.
- 3) Stack heights may be no less than those listed above without prior approval from the Department.

Applicable Requirements: ACP-17901 v1.1 and ACP-18250 v1.0

- H. **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 facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

Applicable Requirement: ACP-18250 v1.0

- I. **Like-Kind Emission Unit Replacement:** This permit allows the permittee to replace the existing emission unit with a like-kind unit. Replacement is subject to the following conditions.

- 1) The Department must be notified within 10 days of replacement. The date of manufacture of the replacement unit and any additional federal applicability must be included in the notification.
- 2) The replacement unit shall operate in the same manner without increasing throughput and have equal or less emissions than the unit it is replacing.
- 3) The replacement unit is subject to the same emission limits and performance testing requirements – both state and federal – as the existing unit. The facility must comply with any applicable federal standards (e.g. NSPS, NESHAP, MACT) triggered by the replacement.
- 4) Testing shall be conducted to confirm compliance with the emission limits within 180 days after start-up of the replacement unit. Emergency units shall not be required to test if replaced by a like-kind unit.

Applicable Requirements: ACP-17901 v1.0 and NDAC 33.1-15-14-06.5.b(1)

3. **Emission Unit Limits:**

**Table 3.1 Emission Unit Limits**

| <b>Emission Unit Description</b> | <b>EU</b>        | <b>EP</b>        | <b>Pollutant/Parameter</b> | <b>Emission/Parameter Limit <sup>A</sup></b>               | <b>NDAC Applicable Requirement</b> |
|----------------------------------|------------------|------------------|----------------------------|--|------------------------------------|
| Caterpillar compressor engines   | C-1 through C-6  | C-1 through C-6  | NO <sub>x</sub>            | 3.66 lb/hr (0.70 g/hp-hr) <sup>B</sup>                     | ACP-17901 v1.1 & ACP-18250 v1.0    |
|                                  |                  |                  | CO                         | 3.27 lb/hr (0.63 g/hp-hr) <sup>B</sup>                     | ACP-17901 v1.1 & ACP-18250 v1.0    |
|                                  |                  |                  | VOC                        | 3.66 lb/hr (0.70 g/hp-hr) <sup>B</sup>                     | ACP-17901 v1.1 & ACP-18250 v1.0    |
|                                  |                  |                  | Opacity                    | 20% <sup>C</sup>   | 33.1-15-03-02                      |
| Ten 400-bbl condensate tanks     | T-1 through T-10 | T-1 through T-10 | VOC                        | 5.99 tons/12-month period/tank (rolling avg.) <sup>D</sup> | ACP-18250 v1.0                     |
| Condensate truck loading         | TL-1             | TL-1             | VOC                        | 20 tons/12-month period (rolling total) <sup>E</sup>       | ACP-17901 v1.1 & ACP-18250 v1.0    |
| LP flare                         | FL-2             | FL-2             | Opacity                    | 20% <sup>F</sup>   | 33.1-15-03-03.1                    |
| Fugitives                        | FUG              | FUG              | VOC                        | Cond. 2.D.2  | 33.1-15-12-02, Subpart OOOOa       |

- <sup>A</sup> Emission limits apply to each individual emission point.
- <sup>B</sup> Less restrictive 40 CFR 60 Subpart JJJJ limits also apply as follows: NO<sub>x</sub> of 1.0 g/hp-hr or 82 ppmvd @ 15% O<sub>2</sub>, CO of 2.0 g/hp-hr or 270 ppmvd @ 15% O<sub>2</sub>, and VOC of 0.7 g/hp-hr or 60 ppmvd @ 15% O<sub>2</sub>. The engines must also comply with any applicable emission limits established by 40 CFR 63, Subpart ZZZZ.
- <sup>C</sup> 40% permissible for not more than one six-minute period per hour.
- <sup>D</sup> VOC emissions from each storage vessel EU T-1 through T-10 VOC shall be limited to less than 6 tons per year, per storage vessel (averaged across each storage vessel grouping), on a 12-month rolling average basis, and are thus not subject sources under 40 CFR 60, Subpart OOOOa per §60.5365a(e).
- <sup>E</sup> On February 25, 2020, the Department approved the use of 0.16 lb VOC/barrel of condensate as an emission factor for company-wide condensate truck loadout operations in North Dakota. As part of the approval, emissions of VOCs shall not exceed 20 tons in any 12-month period (rolling total).
- <sup>F</sup> 60% permissible for not more than one six-minute period per hour.

4. **Monitoring Requirements and Conditions:**

A. **Requirements:**

**Table 4.1 Emission Monitoring**

| <b>Emission Unit Description</b> | <b>EU</b>        | <b>Pollutant/ Parameter</b> | <b>Monitoring Requirement (Method)</b> | <b>Condition Number</b> | <b>NDAC Applicable Requirement</b>                    |
|----------------------------------|------------------|-----------------------------|--|-------------------------|---|
| Caterpillar compressor engines   | C-1 through C-6  | NO <sub>x</sub> /CO/VOC     | Emissions Testing                      | 4.B.1                   | 33.1-15-14-06.5.a(3)(a) & 33.1-15-12-02, Subpart JJJJ |
|                                  |                  | Opacity                     | Recordkeeping                          | 4.B.2                   | 33.1-15-14-06.5.a(3)(a)                               |
| Ten 400-bbl condensate tanks     | T-1 through T-10 | VOC                         | Recordkeeping & Calculation            | 4.B.3 & 4.B.4           | 33.1-15-14-06.5.a(3)(a)                               |
| Condensate truck loading         | TL-1             | VOC                         | Recordkeeping & Calculation            | 4.B.5                   | ACP-17901 v1.1  |
| LP flare                         | FL-2             | Opacity                     | Recordkeeping & VEO                    | 4.B.6                   | 33.1-15-14-06.5.a(3)(a)                               |
| Reciprocating Compressors        | --               | VOC                         | Recordkeeping                          | 4.B.7                   | 33.1-15-12-02, Subpart OOOOa                          |
| Fugitive emissions               | FUG              | VOC                         | LDAR                                   | 4.B.8                   | 33.1-15-12-02, Subpart OOOOa                          |

B. **Monitoring Conditions:**

- 1) For each engine, once every 8,760 hours of operation, three years, or when changes are made to an engine that may increase emission rates, whichever is more frequent, to provide a reasonable assurance of compliance, the permittee shall conduct an emissions test to measure NO<sub>x</sub>, CO and, if applicable, VOC emissions using EPA approved test methods in 40 CFR 60, Appendix A, or at a minimum a portable analyzer method approved by the Department. A test shall consist of at least three runs with each run at least 20 minutes in length.

Note: This requirement may be satisfied if recurring testing is otherwise performed in accordance with requirements under 40 CFR 60, Subpart JJJJ or 40 CFR 63, Subpart ZZZZ.

- 2) For purposes of compliance monitoring, burning of fuels outlined in Condition 2.A shall be considered credible evidence of compliance with the opacity limit. 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 opacity limit in the event of enforcement action.

- 3) VRU Monitoring: Monitoring records of downtime must be kept on at least an hourly basis and averaged across a rolling 8,760-hour period. Only hours in which potentially recoverable vapors are generated from any controlled storage vessel are considered in this period.
- a) Sub-hourly downtime records must be converted to hourly, where any recorded downtime within the hour makes the whole hour to be considered down.
- 4) Storage Vessel Monitoring (to remain non-affected facilities under 40 CFR 60, Subpart OOOOa): By the 15<sup>th</sup> day of each month, the permittee must calculate VOC emissions from the storage vessels using records of monthly throughput and any model or calculation methodology for working, breathing and flashing emissions that are generally accepted under 40 CFR 60, Subpart OOOOa.

- a) Storage Vessel emissions must be calculated using the following equation:

$$\text{VOC}_{\text{post}} = \text{VOC}_{\text{pre}} \times \text{Downtime}$$

Where:

VOC<sub>post</sub> = VOC emissions in tons per year (tpy), 12-month rolling average (post-control)

VOC<sub>pre</sub> = VOC emissions in tpy routed through the CVS (pre-control)

Downtime = hours that the VRU was not operating or the CVS bypass was open divided by the number of hours that vapors were generated, for the 12-month rolling period (ratio between 0 to 1)

- b) Records of monthly storage vessel battery throughput, emission calculations used to demonstrate compliance, and all periods of uncontrolled releases must be kept for a period of five years

1) The throughput can be determined by estimating daily throughput based on the previous monthly production or other Department-approved method.

- b) If the calculated VOC emissions equal or exceed 6 tons in any 12-month period, the permittee shall notify the Department by the 25<sup>th</sup> day of the month in which calculation was made.

- 5) Truck Loading Monitoring: By the 15<sup>th</sup> day of each month, the permittee shall calculate VOC emissions from the condensate truck loadout (EU TL-1). The following calculation shall be used to calculate emissions:

$$\text{VOC}_{\text{EU TL}} (\text{tons}/12\text{-month period}) = \text{EF} \times \text{T} \times (1 \text{ ton}/2,000 \text{ lb})$$

Where:

|                      |   |   |
|----------------------|---|---|
| VOC <sub>EU TL</sub> | = | VOC emissions from truck loading (tons)                             |
| EF                   | = | VOC emission factor from truck loading<br>(0.16 lb VOC/bbl loaded)* |
| T                    | = | Amount of condensate loaded (barrels/12-<br>month period)           |

\* The emission factor shall be based on the most recent Department-approved performance test conducted to measure VOC emissions from condensate truck loading. Alternative emission factors may be utilized upon approval from the Department.

- a) If VOC emissions exceed 20 tons in any 12-month period, the permittee shall notify the Department by the 25<sup>th</sup> day of the month in which the calculation was made.
- 6) Visible Emissions Observations (VEO): At least once per week in which the emission unit is operated, a company representative who is certified, has been certified, or has received Department approved visible emissions training (requires a one-time visible emissions session) shall observe the emission points. If no visible emissions are present, the permittee shall record the date, time and observation results.
  - a) If the observation indicates visible emissions are present, the permittee must investigate for a potential problem within eight hours. Any problems that are discovered must be corrected as soon as possible. If the correction of the situation is expected to take longer than 24 hours, the permittee shall follow procedures as outlined in Condition 7.G. Following corrective maintenance, a visible emissions observation shall be made.
    - 1) If no visible emissions are observed, the date and time shall be recorded. If visible emissions are observed, a formal visible emissions evaluation shall be conducted in accordance with Condition 4.B.5)b.
  - b) If visible emissions are observed for longer than 24 hours, the permittee shall conduct a formal visible emissions evaluation of the flare to determine if the emissions are in compliance with the applicable opacity standard. Opacity readings shall consist of three consecutive six-minute periods per day of flaring using EPA Reference Method 9 and conducted by a certified visible emissions reader.
  - c) All instances of visible emissions, investigations of malfunctions and corrective actions shall be recorded. The permittee shall comply with the visible emissions emission limits in Table 3.1 and nothing in this condition shall be construed as authorizing otherwise.
- 7) For each reciprocating compressor affected facility, monitoring of cumulative hours of operation or number of months since previous replacement of the rod packing and dates and times of each rod packing replacement shall be in accordance with the requirements of 40 CFR 60, Subpart OOOOa, §60.5385a, as applicable.

8) For all equipment subject to the standard, the permittee shall comply with the inspection, monitoring and maintenance requirements of 40 CFR 60, Subpart OOOOa, §60.5397a, as applicable.

C. In addition to the requirements outlined in Conditions 4.A and 4.B, monitoring shall be in accordance with the following requirements of NDAC 33.1-15-12 and 40 CFR 63, as applicable.

- 1) NDAC 33.1-15-12-02, Subpart OOOOa, Continuous Compliance and Monitoring
- 2) 40 CFR 63, Subpart ZZZZ, §63.6635-§63.6640, Continuous Compliance

Applicable Requirements: NDAC 33.1-15-12-02, Subpart OOOOa and 40 CFR 63, Subpart ZZZZ

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) 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]

**Table 5.1 Monitoring Records**

| <b>Emission Unit Description</b> | <b>EU</b>        | <b>Pollutant/<br/>Parameter</b>        | <b>Compliance Monitoring<br/>Record</b>           |
|----------------------------------|------------------|--|---|
| Caterpillar compressor engines   | C-1 through C-6  | NO <sub>x</sub> /CO/VOC<br><br>Opacity | Emissions Testing Data<br><br>Fuel Type Data      |
| Ten 400-bbl condensate tanks     | T-1 through T-10 | VOC                                    | Recordkeeping & Emission Calculation Data         |
| Condensate truck loading         | TL-1             | VOC                                    | Recordkeeping & Emission Calculation Data         |
| LP flare                         | FL-2             | Opacity                                | Recordkeeping and VEO Data                        |
| Reciprocating Compressors        | --               | VOC                                    | Recordkeeping Data                                |
| Fugitive emissions               | FUG              | VOC                                    | LDAR Inspection, Monitoring & Repair Records Data |

B. In addition to requirements outlined in Condition 5.A, recordkeeping shall be in accordance with the following requirements of NDAC 33.1-15-12, 33.1-15-22 and 40 CFR 63, as applicable:

- 1) NDAC 33.1-15-12-02, Subpart A, §60.7, Notification and Recordkeeping
- 2) NDAC 33.1-15-12-02, Subpart JJJJ, §60.4245, Notification, Reports, and Records
- 3) NDAC 33.1-15-12-02, Subpart OOOOa, § 60.5420a, Notification, Reporting, and Recordkeeping Requirements
- 4) NDAC 33.1-15-22-03, Subpart A, §63.10, Recordkeeping and Reporting Requirements
- 5) 40 CFR 63, Subpart ZZZZ, §63.6645 – §63.6660, Notifications, Reports, and Records

Applicable Requirements: NDAC 33.1-15-12, NDAC 33.1-15-22 and 40 CFR 63, Subpart ZZZZ

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 requirements of NDAC 33.1-15-12, 33.1-15-22 and 40 CFR 63, as applicable:

- 1) NDAC 33.1-15-12-02, Subpart A, §60.7, Notification and Recordkeeping
- 2) NDAC 33.1-15-12-02, Subpart JJJJ, §60.4245, Notification, Reports, and Records
- 3) NDAC 33.1-15-12-02, Subpart OOOOa, § 60.5420a, Notification, Reporting, and Recordkeeping Requirements
- 4) NDAC 33.1-15-22-03, Subpart A, §63.10, Recordkeeping and Reporting Requirements
- 5) 40 CFR 63, Subpart ZZZZ, §63.6645 – §63.6660, Notifications, Reports, and Records

Applicable Requirements: NDAC 33.1-15-12, NDAC 33.1-15-22 and 40 CFR 63, Subpart ZZZZ

- 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.

Note: Semi-annual LDAR reports for 40 CFR 60, Subpart OOOOa shall be provided separately.

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, 2<sup>nd</sup> 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 Modifications:** 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. **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

- B. **Hydrogen Sulfide Restriction:** The permittee shall not discharge into the ambient air hydrogen sulfide (H<sub>2</sub>S) in concentrations that would be objectionable on land owned or leased by the complainant or in areas normally accessed by the general public. For the purpose of complaint resolution, two samples with concentrations greater than 0.05 parts per million (50 parts per billion) sampled at least 15 minutes apart within a two-hour period and measured in accordance with Section 33.1-15-16-04 constitute a violation.

Applicable Requirement: NDAC 33.1-15-16-04