

September 8, 2017

**Via Overnight Delivery**

Patrick Fahn  
Public Utilities Analyst  
North Dakota Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480



**RE: Case Nos. PU-10-666 and PU-10-568  
ONEOK Rockies Midstream, L.L.C.  
Post Construction Inspection Report Follow-up**

ONEOK Rockies Midstream, L.L.C. (ORM) submits the following statements and enclosed materials to supplement its prior letter dated October 13, 2015.

**1. PU-10-568 – Garden Creek Gas Plant, McKenzie County, North Dakota**

PSC Request:

*As per the post construction inspection report, the following information should be provided:*

- *Copy of the air permit and the discharge permit for hydrostatic testing of pipe have not been supplied to the Commission. Order Point No. 4 is complete contingent on these permits being supplied to the Commission.*

ORM Response:

See the enclosed materials at Tab A.

The Garden Creek Gas Plant was issued its North Dakota Air Pollution Control Title V Source Permit to Operate T5-016001 on April 18, 2017. All permits responsive to Order Point No. 4 have been submitted.

**2. PU-10-666 – Stateline Gas Plant, Williams County, North Dakota**

PSC Request:

*As per the post construction inspection report, the following information should be provided:*

129 PU-10-666 Filed 09/14/2017 Pages: 49  
Supplemental response to letter re post construction inspection report  
ONEOK Rockies Midstream, L.L.C.  
David Roensch

155 PU-10-568 Filed 09/14/2017 Pages: 49  
Supplemental response to letter re post construction inspection report  
ONEOK Rockies Midstream, L.L.C.  
David Roensch

September 8, 2017  
Patrick Fahn

- *A copy of the letter of coverage for the storm water pollution prevention plan (SWPPP), a copy of the SHPO approved undiscovered finds plan, and the Department of Health air permit to the Commission. Once all permits and licenses have been supplied to the Commission, the Commission can deem the Company compliant with Order Point No. 4.*

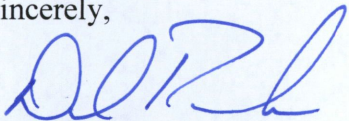
ORM Response:

See the enclosed materials at Tab B.

The Stateline Gas Plant was issued its North Dakota Air Pollution Control Title V Source Permit to Operate T5-015012 on February 23, 2016. All permits responsive to Order Point No. 4 have been submitted.

Thank you for your attention to enclosed materials. Please contact Edwin Zedaker, Environmental Project Manager, at 918-595-1783 or, via email, at [Edwin.Zedaker@oneok.com](mailto:Edwin.Zedaker@oneok.com) with any questions or concerns you may have.

Sincerely,



David C. Roensch  
Vice President, Natural Gas Gathering and Processing Operations

Enclosures



April 18, 2017

**RECEIVED**

APR 19 2017

ONEOK  
CORP ENVIRONMENTAL

Mr. Kale Hanner  
Environmental Engineer  
ONEOK, Inc  
P.O. Box 871  
Tulsa, OK 74102-0871

Re: Air Pollution Control  
Permit to Operate - Initial  
Title V Source

Dear Mr. Hanner:

On October 23, 2015 the Department received an initial Permit to Operate application for the Garden Creek Gas Plant located in McKenzie County, North Dakota.

Based on our review of the permit application and other relevant documents, the Department hereby issues a Permit to Operate for the source. The Department's issuance of the permit is contingent upon compliance with the conditions outlined in the permit. Please review each condition carefully and note the restrictions placed on the source units. For your information, during the 30-day public comment period no comments were received.

Note that the above-referenced permit addresses only air quality requirements applicable to your facility. Other divisions (Water Quality, Waste Management and Municipal Facilities) within the Environmental Health Section may have additional requirements. Contact information for the various divisions is listed at the bottom of this letter.

If you have any questions, please contact me at (701)328-5188 or email [kkschneider@nd.gov](mailto:kkschneider@nd.gov).

Sincerely,

Kyla K. Schneider  
Environmental Scientist  
Division of Air Quality

KKS:saj

Enc:

xc/enc: Patrick Wauters, EPA/R8 (email)

NGGP ENVIRONMENTAL

Original to CES for Review: Lynn	_____	Kale	<u>KH</u>
Torri	_____	Klent	_____
Brent	_____	Michael	_____
Kim	_____	Byron	_____
Victoria	_____	Cameron	<u>X</u>
Landon	_____	Todd	<u>X</u>
Kyle	_____		
pdf to Ops Mgr:	<u>K. JOHNSRUB</u>		
pdf to Ops/Engr/Other:	<u>C. FONCK</u>		
pdf to Tester: MikeWms-Great Plain (OK & KS)	_____		
ChrisKnott-Oasis (MT, ND & WY)	<u>al</u>		
pdf for EIMS	<u>al</u>	Larry	<u>al</u>
pdf to Above and Sharepoint (Date)	<u>4-24-17</u>		

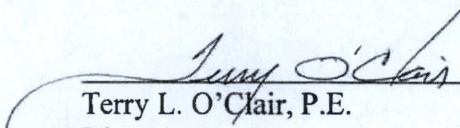


**AIR POLLUTION CONTROL  
TITLE V PERMIT TO OPERATE**

<b>Permittee:</b> <b>Name:</b> ONEOK Rockies Midstream, L.L.C.  <b>Address:</b> 100 West Fifth Street Tulsa, OK 74103-4298	<b>Permit Number:</b>  T5-O16001
	<b>Source Name:</b>  Garden Creek Gas Plant
<b>Source Location:</b> SE ¼, Sec. 35, T151N, R98W 12111 - 30 <sup>th</sup> Street NW Watford City, North Dakota McKenzie County	<b>Source Type:</b>  Natural Gas Processing
<b>Expiration Date:</b>  <p align="center">April 18, 2022</p>	

Pursuant to Chapter 23-25 of the North Dakota Century Code, and the Air Pollution Control Rules of the State of North Dakota, Article 33-15 of the North Dakota Administrative Code (NDAC), and in reliance on statements and representations heretofore made by the permittee 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. 0 (Initial): 4/18/2017  
 Revision No. 0: \_\_\_\_\_

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

Garden Creek Gas Plant  
Title V Permit to Operate  
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1. **Emission Unit Identification:**

The emission units regulated by this permit are listed below. All emission unit ratings are considered nominal ratings.

Emission Unit Description	Emission Unit (EU)	Emission Point (EP)	Air Pollution Control Equipment
<b>Garden Creek Gas Plant</b>			
Three OPF Model HT-760 natural gas-fired hot oil heaters rated at $61.5 \times 10^6$ Btu/hr each (Dc)	H-1, H-1A & H-1B	H-1, H-1A & H-1B	None
Three natural gas-fired regeneration gas heaters rated at $6.67 \times 10^6$ Btu/hr each	H-2, H-2A & H-2B	H-2, H-2A & H-2B	None
Three 300 barrel (12,600 gallon) methanol storage tanks	TK-METH-1, TK-METH-2 & TK-METH-3 <sup>A</sup>	TK-METH-1, TK-METH-2 & TK-METH-3	Submerged Fill Pipe
Twelve 700 barrel (29,400 gallon) low pressure condensate storage tanks <sup>B</sup>	TK-COND-1 through TK-COND-12	TK-COND-1, TK-COND-2 & TK-COND-3	Fixed Roof, Pressure Regulator & Submerged Fill Pipe
Six 400 barrel (16,800 gallon) produced water/slop oil storage tanks	TK-PW-1A, TK-PW-1B, TK-PW-2A, TK-PW-2B, TK-PW-3A & TK-PW-3B	TK-PW-1A, TK-PW-1B, TK-PW-2A, TK-PW-2B, TK-PW-3A & TK-PW-3B	Fixed Roof & Submerged Fill Pipe
Three 150 barrel (6,300 gallon) produced water/slop oil storage tanks	TK-SLOP-1, TK-SLOP-2 & TK-SLOP-3	TK-SLOP-1, TK-SLOP-2 & TK-SLOP-3	Fixed Roof & Submerged Fill Pipe
Three 17 barrel (714 gallon) produced water/slop oil, pressurized, storage tanks	TK-SWV-1, TK-SWV-2 & TK-SWV-3 <sup>A</sup>	TK-SWV-1, TK-SWV-2 & TK-SWV-3	None
Three Caterpillar Model G3516C LE lean burn natural gas-fired engine-driven emergency generators rated at 1,462 bhp each (built after 7/1/10, JJJJ)	EGEN-1, EGEN-2 & EGEN-3	EGEN-1, EGEN-2 & EGEN-3	None
Three condensate truck loading units	TL-1, TL-2 & TL-3	TL-1, TL-2 & TL-3	None
Three process/emergency flares	FL-1, FL-2 & FL-3	FL-1, FL-2 & FL-3	None
Fugitive emissions (KKK, LDAR)	FUG-2 <sup>A</sup>	Fugitive	None
Fugitive emissions (KKK, non-LDAR)	FUG-3 <sup>A</sup>	Fugitive	None
Fugitive emissions (OOOO)	FUG-5 <sup>A</sup>	Fugitive	None
Three lube oil storage tanks	TK-LUBE-1, TK-LUBE-2 & TK-LUBE-3 <sup>A</sup>	TK-LUBE-1, TK-LUBE-2 & TK-LUBE-3	None

<b>Emission Unit Description</b>	<b>Emission Unit (EU)</b>	<b>Emission Point (EP)</b>	<b>Air Pollution Control Equipment</b>
Three used oil storage tanks	TK-USED-1, TK-USED-2 & TK-USED-3 <sup>A</sup>	TK-USED-1, TK-USED-2 & TK-USED-3	None
Three Miscellaneous Process Vents	MISC 1, MISC 2 & MISC 3 <sup>A</sup>	MISC 1, MISC 2 & MISC 3	None
<b>Garden Creek Compressor Station</b>			
Compressor station, three 400 barrel (16,800 gallon) condensate storage tanks	CS-TK-1, CS-TK-2 & CS-TK-4	CS-TK-1, CS-TK-2 & CS-TK-4	VRU
Compressor station 210 barrel (8,820 gallon) methanol storage tank	CS-TK-3 <sup>A</sup>	CS-TK-3	Fixed Roof & Submerged Fill Pipe
Compressor station condensate truck loading unit (compressor station)	CS-TL-1	CS-TL-1	Vapor Return/Dripless Connections
Compressor station emergency flare	CS-FL-1	CS-FL-1	None
Compressor station fugitive emissions (KKK, LDAR)	CS-FUG-2 <sup>A</sup>	CS-FUG-2	None
Compressor station fugitive emissions (KKK, non-LDAR)	CS-FUG-3 <sup>A</sup>	CS-FUG-3	None

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

<sup>B</sup> Each train has four low-pressure, gas blanketed tanks that share a common ¾" relief pipe in the event that pressure in the tanks exceeds the maximum setpoint.

**2. Restrictions:**

A. Fuel Restriction: All equipment at the facility is restricted to combusting only natural gas containing no more than 2 grains of sulfur per 100 standard cubic feet. This fuel restriction ensures compliance with NDAC 33-15-06-01.2

Applicable Requirement: NDAC 33-15-06-01.2

B. Flaring Restrictions:

1) Flaring may not be used to burn waste gas for the purpose of increasing or maintaining well production without prior approval from this Department. When it is necessary to operate the flares during emergency, malfunction or maintenance, all precautions shall be taken to minimize emissions and maintain compliance with all ambient air quality standards as outlined in NDAC 33-15-02 and the opacity standard of 20% not to exceed 60% for more than one six-minute period per hour.

- 2) The flares 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 33-15-07-02.
- 3) The owner/operator shall minimize oil field gas flaring by notifying all appropriate companies and field personnel of all planned and emergency plant shutdowns to allow operators to shut-in wells rather than flare.
- 4) The presence of a flame shall be monitored using a thermocouple or any other equivalent device approved by the Department.

Applicable Requirement: NDAC 33-15-14-06.5.b(1)

3. **Stack Height Requirements:**

- A. Emissions from the hot oil heaters (EUs H-1, H-1A & H-1B) shall be vented from stack heights which are at least 105 feet above ground level. The stack heights for the gas plant flares (FL-1, FL-2 and FL-3) shall be at least 150 feet above ground level and the stack height for the compressor station flare (CS-FL-1) shall be at least 70 feet above ground level.

Applicable Requirements: NDAC 33-15-18-01.2.d(2)(b) and NDAC 33-15-14-06.5.b(1)

4. **Miscellaneous Requirements:**

- A. **New Source Performance Standards:** The permittee shall comply with the following subparts of 40 CFR 60 in addition to complying with Subpart A – General Provisions.
  - 1) 40 CFR 60, Subpart Dc – Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. Applicable to the hot oil heaters (EU H-1, EU H-1A and EU H-1B).
  - 2) 40 CFR 60, Subpart KKK – Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.
  - 3) 40 CFR 60, Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. Applicable to the emergency generator engines (EUs EGEN-1, EGEN-2 & EGEN-3).
  - 4) 40 CFR 60, Subpart OOOO – Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after August 23, 2011, and on or before September 18, 2015 and/or 40 CFR 60, Subpart OOOOa – Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced after September 18, 2015. Processes and/or units may be or may become subject to NSPS Subparts OOOO and/or OOOOa. The Department has not adopted these subparts.

Please send all reports and 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 33-15-12, Subparts A, Dc, KKK, JJJJ, and 40 CFR 60 Subpart OOOO and OOOOa

B. Maximum Achievable Control Technology – The permittee shall comply with the following subparts of 40 CFR 63 in addition to complying with Subpart A – General Provisions.

- 1) 40 CFR 63, Subpart HH – The owner/operator must comply with all applicable requirements of 40 CFR 63, Subpart HH – National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities. The Department has not adopted the area source provisions of this subpart. Please send all required reports and documentation to EPA Region 8 at the address listed in Condition 4.A.4.
- 2) 40 CFR 63, Subpart ZZZZ – National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. Applicable to the emergency generator engines (EUs EGEN-1, EGEN-2 & EGEN-3); engines comply with this subpart by complying with 40 CFR 60, Subpart JJJJ as applicable. The Department has not adopted the area source provisions this subpart. Please send all reports and documentation to EPA at the following address to EPA at the address listed in Condition 4.A.4.

Applicable Requirements: 40 CFR 63 Subparts A, HH and ZZZZ

C. Like-Kind Engine Replacement: This permit allows the permittee to replace the existing engine(s) with a like-kind engine. Replacement is subject to the following conditions.

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

Applicable Requirement: NDAC 33-15-14-06.5.b(1)

5. Emission Unit Limits:

Emission Unit Description	EU	EP	Pollutant / Parameter	Emission Limit	NDAC Applicable Requirement
<b>Garden Creek Gas Plant</b>					
Three hot oil heaters	H-1, H-1A & H-1B	H-1, H-1A & H-1B	Opacity	20% <sup>A</sup>	33-15-03-02
Three regeneration gas heaters	H-2, H-2A & H-2B	H-2, H-2A & H-2B	Opacity	20% <sup>A</sup>	33-15-03-02
Three Caterpillar emergency generator engines	EGEN-1, EGEN-2 & EGEN-3	EGEN-1, EGEN-2 & EGEN-3	NO <sub>x</sub>	2.0 g/hp-hr or 160 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			CO	4.0 g/hp-hr or 540 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			VOC	1.0 g/hp-hr or 86 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			Opacity	20% <sup>A</sup>	33-15-03-02
			Operating Hours	<sup>B</sup>	33-15-12-02, Subpart JJJJ
Three process/emergency flares	FL-1, FL-2 & FL-3	FL-1, FL-2 & FL-3	Opacity	20% <sup>C</sup>	33-15-03-03.1
<b>Garden Creek Compressor Station</b>					
Compressor station emergency flare	CS-FL-1	CS-FL-1	Opacity	20% <sup>C</sup>	33-15-03-03.1

<sup>A</sup> 40% opacity is permissible for not more than one six-minute period per hour.

<sup>B</sup> The potential to emit for an emergency stationary reciprocating internal combustion engine (RICE) is based on operating no more hours per year than is allowed by the subpart [40 CFR 60, Subpart JJJJ, §60.4243(d); and 40 CFR 63, Subpart ZZZZ, §63.6640(f)] for other than emergency situations. For engines to be considered emergency stationary RICE under 40 CFR 60, Subpart JJJJ (§60.4243) or 40 CFR 63, Subpart ZZZZ (§63.6640), engine operations must comply with non-emergency operating hour limits as specified in the applicable subpart. There is no time limit on the use of emergency stationary RICE in emergency situations. See Cond. 6.B.4.

<sup>C</sup> 60% opacity is permissible for not more than one six-minute period per hour.

6. **Monitoring Requirements and Conditions:**

A. Requirements

Emission Unit Description	EU	EP	Pollutant / Parameter	Monitoring Requirement (Method)	Condition Number	NDAC Applicable Requirement
<b>Garden Creek Gas Plant</b>						
Three hot oil heaters	H-1, H-1A & H-1B	H-1, H-1A & H-1B	Opacity	Recordkeeping & Visible Emissions Observations (VEO)	6.B.1 & 6.B.2	33-15-14-06.5.a(3)(a)
Three regeneration gas heaters	H-2, H-2A & H-2B	H-2, H-2A & H-2B	Opacity	Recordkeeping & VEO	6.B.1 & 6.B.2	33-15-14-06.5.a(3)(a)
Three Caterpillar emergency generator engines	EGEN-1, EGEN-2 & EGEN-3	EGEN-1, EGEN-2 & EGEN-3	NO <sub>x</sub> /CO/ VOC	Stack Test	6.B.5	33-15-12-02, Subpart JJJJ
			Opacity	Recordkeeping	6.B.1	33-15-14-06.5.a(3)(a)
			Operating Hours	Recordkeeping	6.B.4	33-15-12-02, Subpart JJJJ & 40 CFR 60, Subpart ZZZZ
Three process/emergency flares	FL-1, FL-2 & FL-3	FL-1, FL-2 & FL-3	Opacity	Recordkeeping & VEO	6.B.1, 6.B.2 & 6.B.3	33-15-14-06.5.a(3)(a)
<b>Garden Creek Compressor Station</b>						
Compressor station emergency flare	CS-FL-1	CS-FL-1	Opacity	Recordkeeping & VEO	6.B.1, 6.B.2 & 6.B.3	33-15-14-06.5.a(3)(a)

B. Monitoring Conditions

- 1) For purposes of compliance monitoring, burning of pipeline quality natural gas as outlined in Condition 2, shall be considered credible evidence of compliance with any applicable opacity or SO<sub>2</sub> emission 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 burning of gaseous fuel as outlined in Condition 2, for evidence of compliance or noncompliance with any applicable opacity emission limit, in the event of enforcement action.
- 2) Once per week in which the emission unit is operated, a company representative (need not be certified) 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 the

correction of the emissions is expected to take longer than 24 hours, the permittee shall follow procedures as outlined in Condition 10.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 emission limit and nothing in this condition shall be construed as authorizing otherwise.

- 3) If the flaring lasts longer than 24 hours, the permittee shall notify the Department as soon as possible during normal working 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 reading 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.
- 4) A log shall be kept of the hours of operation of EUs EGEN-1, EGEN-2 and EGEN-3 to include the reason for operation (emergency, non-emergency, maintenance, etc.).
- 5) Stack testing at EPs EGEN-1, EGEN-2 and EGEN-3 shall be conducted every 8,760 hours of operation or three years, whichever comes first, in accordance with 40 CFR 60, Subpart JJJJ.

**7. Recordkeeping Requirements:**

- A. The permittee shall maintain compliance monitoring records, as outlined in the Monitoring Records table that includes 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 for the engines (i.e., ambient conditions, horsepower calculations, suction/discharge pressures, testing rate compared to rated capacity, timing, air to fuel ratio and rpm that existed at the time of sampling or measurement.
  - 7) The records of quality assurance for emissions measuring systems including, but not limited to, quality control activities, audits and calibration drifts as required by the applicable test method, standard or monitoring equipment.
  - 8) A copy of all field data sheets from the emissions testing.

Applicable Requirement: NDAC 33-15-14-06.5.a(3)(b)[1]

**Monitoring Records**

<b>Emission Unit Description</b>	<b>EU</b>	<b>EP</b>	<b>Pollutant / Parameter</b>	<b>Compliance Monitoring Record</b>
<b>Garden Creek Gas Plant</b>				
Three hot oil heaters	H-1, H-1A & H-1B	H-1, H-1A & H-1B	Opacity	Fuel Type & Visible Emissions Observations (VEO) Data
Three regeneration gas heaters	H-2, H-2A & H-2B	H-2, H-2A & H-2B	Opacity	Fuel Type & VEO Data
Three Caterpillar emergency generator engines	EGEN-1, EGEN-2 & EGEN-3	EGEN-1, EGEN-2 & EGEN-3	NOx/CO/VOC	Stack Test Data
			Opacity	Fuel Type Data
			Operating Hours	Operating Hours Data
Three process/emergency flares	FL-1, FL-2 & FL-3	FL-1, FL-2 & FL-3	Opacity	Fuel Type Data & VEO Data
<b>Garden Creek Compressor Station</b>				
Compressor station emergency flare	CS-FL-1	CS-FL-1	Opacity	Fuel Type Data & VEO Data

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

Applicable Requirement: NDAC 33-15-14-06.5.a(3)(b)[2]

**8. Reporting:**

- A. The permittee shall submit a semi-annual monitoring report for all monitoring records required under Condition 7 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 33-15-14-06.5.a(3)(c)[1] and [2]

- B. The permittee shall submit an annual compliance certification report in accordance with NDAC 33-15-14-06.5.c (5) within 45 days after December 31 of each year on forms supplied or approved by the Department.

Applicable Requirement: NDAC 33-15-14-06.5.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 33-15-14-06.5.a(6)(e)

- D. 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 33-15-14-06.5.a(7) and NDAC 33-15-23-04

9. **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 33-15-02.
- 2) Radioactive substances. The permittee shall not release into the ambient air any radioactive substances exceeding the concentrations specified in NDAC 33-10.
- 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 Requirement: NDAC 33-15-02-04

- B. **Fugitive Emissions:** The release of fugitive emissions shall comply with the applicable requirements in NDAC 33-15-17.

Applicable Requirement: NDAC 33-15-17

- 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 33-15-04-02 and may not conduct, cause, or permit the conduct of a salvage operation by open burning. Any permissible open burning under NDAC 33-15-04-02 must comply with the requirements of that section.

Applicable Requirement: NDAC 33-15-04

- D. **Asbestos Renovation or Demolition:** Any asbestos renovation or demolition at the facility shall comply with emission standard for asbestos in NDAC 33-15-13.

Applicable Requirement: NDAC 33-15-13-02

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

- 1) The owner/operator shall incinerate, flare or treat in an equally effective manner any organic compounds, gases and vapors which are generated as wastes as the result of storage, refining, or process operations and which contain hydrogen sulfide before being released to the ambient air.
- 2) Each flare must be equipped and operated with an automatic ignitor or a continuous burning pilot.

Applicable Requirement: NDAC 33-15-07-02

- 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 33-15-07-01.5

- 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 twenty-four 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 33-15-01-13.1

2) Malfunctions.

- a) When a malfunction in any installation occurs that can be expected to last longer than twenty-four 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 twenty-four-hour state radio emergency number 1-800-472-2121. If calling from out of state, the twenty-four-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 thirty days of the end of the calendar quarter in which the malfunction occurred or within thirty 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 33-15-01-13.2

- 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 33-15-21 (40 CFR 75, Acid Rain Program).

Applicable Requirement: NDAC 33-15-01-13.3

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 33-15-14-06.5.g

- I. **Air Pollution from Internal Combustion Engines:** The permittee shall comply with all applicable requirements of NDAC 33-15-08-01 – Internal Combustion Engine Emissions Restricted.

Applicable Requirement: NDAC 33-15-08-01

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

- 1) The permittee shall not permit or cause air pollution, as defined in NDAC 33-15-01-04.
- 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 33-15-01-15

- 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 23-25. 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 holes in 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 33-15-01-12

- 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. 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 33-15-14-06.5.a(3)(a), NDAC 33-15-12-02 Subpart A (40 CFR 60.8), NDAC 33-15-13-01.2 Subpart A (40 CFR 61.13), NDAC 33-15-22-03 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 33-15-10.

Applicable Requirements: NDAC 33-15-10-01 and NDAC 33-15-10-02

- 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 33-15-11.

Applicable Requirements: NDAC 33-15-11-01 through NDAC 33-15-11-04

- 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 33-15-14-06.5.b(1)

- Q. **Prevention of Significant Deterioration of Air Quality (40 CFR 52.21 as incorporated by NDAC Chapter 33-15-15):** 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 33-15-15-01.2

## 10. **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 sixty 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 33-15-14-06.5.a(7) and NDAC 33-15-23-04

- B. **Permit Renewal and Expiration:** This permit shall be effective from the date of its issuance for a fixed period of 5 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 eighteen months, prior to the date of permit expiration. The Department shall approve or disapprove the renewal application within sixty 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 33-15-14-06.4 and NDAC 33-15-14-06.6

- C. **Transfer of Ownership or Operation:** This permit may not be transferred except by procedures allowed in Chapter 33-15-14 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 33-15-14-06.6.d

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

Applicable Requirement: NDAC 33-15-14-06.5.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, 2<sup>nd</sup> 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 33-15-14-06.4.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 33-15-14-06.5.c(2) and NDAC 33-15-01-06

- 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 23-25 and NDAC 33-15. 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 23-25. 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 33-15-14-06.5.a(6)(a) and NDAC 33-15-14-06.5.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 33-15-14-06.5.a(6)(e), NDAC 33-15-14-06.6.b(3) and NDAC 33-15-14-06.4.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 eighteen 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 33-15-14-06.6.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 33-15-14-06.5.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 33-15-14-02 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 33-15-14-06. 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 33-15-14-06.6.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 33-15-14-06.6.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) Are not modifications under NDAC 33-15-12, 33-15-13, and 33-15-15 or any provision of Title I of the Federal Clean Air Act.
- 6) Are not required to be processed as a significant modification.

Applicable Requirement: NDAC 33-15-14-06.6.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 33-15-14-06.6.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 33-15-14-06.6.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 33-15-14-06.3 and NDAC 33-15-14-06.5.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 33-15-14-06.5.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 33-15-01-08

11. **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 33-15-16.

Applicable Requirement: NDAC 33-15-16

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 33-15-16-04 constitute a violation.

Applicable Requirement: NDAC 33-15-16-04



February 23, 2016

RECEIVED

MAR - 1 2016

Ms. Deborah Perry-Chambers  
Manager, Environmental  
ONEOK, Inc.  
P.O. Box 871  
Tulsa, OK 74102-0871

ONEOK  
CORP ENVIRONMENTAL

Re: Air Pollution Control  
Permit to Operate Renewal  
Title V (Initial) Source

Dear Ms. Perry-Chambers:

On January 1, 2015 the Department received an application for an initial Title V Permit to Operate for the Stateline Gas Plant located near Williston, North Dakota.

Based on our review of the permit application and other relevant documents, the Department hereby issues a Permit to Operate for the source. The Department's issuance of the permit is contingent upon compliance with the conditions outlined in the permit. Please review each condition carefully and note the restrictions placed on the source units. For your information, during the 30-day public comment period no comments were received.

Note that the above-referenced permit addresses only air quality requirements applicable to your facility. Other divisions (Water Quality, Waste Management and Municipal Facilities) within the Environmental Health Section may have additional requirements. Contact information for the various divisions is listed at the bottom of this letter. If you have any questions, please contact me at (701)328-5188.

Sincerely,



Lewis H. Dendy  
Environmental Scientist  
Division of Air Quality

LHD:csc

Enc:

xc/enc: Mike Owens, EPA/Region 8 (email)

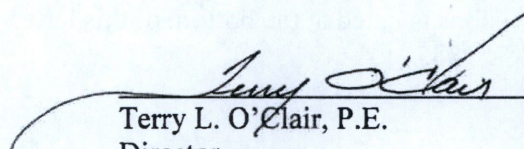


**AIR POLLUTION CONTROL  
TITLE V PERMIT TO OPERATE**

<b>Permittee:</b> <b>Name:</b> ONEOK Rockies Midstream, L.L.C.  <b>Address:</b> 100 West Fifth Street Tulsa, OK 74103-4298	<b>Permit Number:</b> T5-O15012  <b>Source Name:</b> Stateline Gas Plant
<b>Source Location:</b> SW ¼, Sec. 21, T155N, R103W 15071 56th St. NW, Williston Williams County, North Dakota	<b>Source Type:</b> Natural Gas Processing
<b>Expiration Date:</b> <p align="center">February 24, 2021</p>	

Pursuant to Chapter 23-25 of the North Dakota Century Code, and the Air Pollution Control Rules of the State of North Dakota, Article 33-15 of the North Dakota Administrative Code (NDAC), and in reliance on statements and representations heretofore made by the permittee designated above, a Title V Permit to Operate is hereby issued authorizing such permittee to operate the emissions unit(s) 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. 0 (Initial): 2/24/2016  
 Revision No. 0: \_\_\_\_\_

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

Stateline Gas Plant  
Title V Permit to Operate  
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1. **Emission Unit Identification:**

The emission units regulated by this permit are listed below. All emission unit ratings are considered nominal ratings.

Emission Unit Description	Emission Unit (EU)	Emission Point (EP)	Air Pollution Control Equipment
Two hot oil heaters rated at 91.4 million Btu/hr each and fired on natural gas	H-1A & H-1B	H-1A & H-1B	None
Two regeneration gas heaters rated at 6.67 million Btu/hr each and fired on natural gas	H-2A & H-2B	H-2A & H-2B	None
Two 300 barrel (12,600 gallon) methanol storage tanks	TK-1 & TK-2*	TK-1 & TK-2	Submerged Fill Pipe
Eight 700 barrel (29,400 gallon) low pressure condensate storage tanks**/***	COND-1 through COND-8	COND-1 & COND-2	Fixed Roof, Pressure Regulator & Submerged Fill Pipe
Four 400 barrel (16,800 gallon) produced water/slop oil storage tanks***	PW-1, 2, 5 & 6	PW-1, 2, 5 & 6	Fixed Roof & Submerged Fill Pipe
Two 150 barrel (6,300 gallon) produced water/slop oil storage tanks***	PW-3 & 7	PW-3 & 7	Fixed Roof & Submerged Fill Pipe
Two 17 barrel (714 gallon) produced water/slop oil storage tanks***	PW-4 & 8	PW-4 & 8	Fixed Roof
Two Caterpillar Model G3516C LE lean burn natural gas-fired engine-driven emergency generators with a maximum rating of 1,462 bhp (built after 7/1/10, NSPS JJJJ)	EGEN-1 & EGEN-2	EGEN-1 & EGEN-2	None
Two condensate truck loading units	TL-1 & 2	TL-1 & 2	None
Two process/emergency flares	FL-1 & 2	FL-1 & 2	None
Fugitive emissions (NSPS KKK, LDAR)	FUG-2*	Fugitive	None
Fugitive emissions (NSPS KKK, non-LDAR)	FUG-3*	Fugitive	None
Fugitive emissions (NSPS OOOO)	FUG-5*	Fugitive	None

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

\*\* Each train of four low-pressure, gas blanketed tanks share a common 3/4" relief pipe in the event that pressure in the tanks exceeds the maximum setpoint.

\*\*\* Constructed pre-NSPS Subpart OOOO.

2. **Fuel Restriction:**

A. All equipment at the facility is restricted to combusting only natural gas containing no more than 2 grains of sulfur per 100 standard cubic feet. This fuel restriction ensures compliance with NDAC 33-15-06-01.2

Applicable Requirement: NDAC 33-15-06-01.2

3. **Flaring Restrictions:**

- A. Flaring may not be used to burn waste gas for the purpose of increasing or maintaining well production without prior approval from this Department. When it is necessary to operate the flares during emergency, malfunction or maintenance, all precautions shall be taken to minimize emissions and maintain compliance with all ambient air quality standards as outlined in NDAC 33-15-02 and the opacity standard of 20% not to exceed 60% for more than one six-minute period per hour.
- B. The flares 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 33-15-07-02.
- C. The owner/operator shall minimize oil field gas flaring by notifying all appropriate companies and field personnel of all planned and emergency plant shutdowns to allow operators to shut-in wells rather than flare.
- D. The presence of a flame shall be monitored using a thermocouple or any other equivalent device approved by the Department.

Applicable Requirement: NDAC 33-15-14-06.5.b(1)

4. **Stack Height Requirements:**

- A. Emissions from the hot oil heaters (EU H-1A and EU H-1B) shall be vented from stack heights which are at least 1.5 times the height of any nearby building. A nearby building is any building located a distance of less than five times the building height from the stack. The stack height for the flares shall be at least 100 feet above ground level.

Applicable Requirements: NDAC 33-15-18-01.2.d(2)(b) and NDAC 33-15-14-06.5.b(1)

5. **Miscellaneous Requirements:**

- A. **New Source Performance Standards:** The permittee shall comply with the following subparts of 40 CFR 60 in addition to complying with Subpart A – General Provisions.
  - 1) 40 CFR 60, Subpart Dc – Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. Applicable to the hot oil heaters (EU H-1A and EU H-1B).
  - 2) 40 CFR 60, Subpart KKK – Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.

Applicable Requirements: NDAC 33-15-12-02, Subparts A and Dc

Applicable Requirement: NDAC 33-15-12-02, Subpart KKK

- 3) 40 CFR 60, Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. Applicable to the emergency generator engines (EU EGEN-1 and EGEN-2).

Applicable Requirement: NDAC 33-15-12-02, Subpart JJJJ

- 4) 40 CFR 60, Subpart OOOO – Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. For this subpart, EPA Region 8, not the North Dakota Department of Health, is the implementing and enforcement authority. All documentation required by this subpart must be submitted to EPA at the address listed below.

Air & Toxics Technical Enforcement Program (8ENF-AT)  
Office of Enforcement, Compliance & Environmental Justice  
US EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Applicable Requirement: 40 CFR 60, Subpart OOOO

- B. Maximum Achievable Control Technology – The permittee shall comply with the following subparts of 40 CFR 63 in addition to complying with Subpart A – General Provisions.

40 CFR 63, Subpart ZZZZ – National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. Applicable to the emergency generator engines (EU EGEN-1 and EGEN-2).

For this subpart EPA Region 8, not the North Dakota Department of Health, is the implementation and enforcement authority. All documentation required by this subpart must be submitted to EPA at the address listed in Condition 5.A.4 above.

Applicable Requirements: 40 CFR 63 Subparts A and ZZZZ

- C. Like-Kind Engine Replacement: This permit allows the permittee to replace the existing engine(s) with a like-kind engine. Replacement is subject to the following conditions.
- 1). The Department must be notified within 10 days after change-out of the engine.
  - 2). The replacement engine shall operate in the same manner, provide no increase in throughput and have equal or less emissions than the engine it is replacing.
  - 3). The date of manufacture of the replacement engine must be included in the notification. The facility must comply with any applicable federal standards (e.g. NSPS, NESHAP, MACT) triggered by the replacement.

- 4) The replacement engine is subject to the same state emission limits as the existing engine in addition to any NSPS or MACT emission limit that is applicable. Testing shall be conducted to confirm compliance with the emission limits within 180 days after start-up of the new engine.

Applicable Requirement: NDAC 33-15-14-06.5.b(1)

6. Emission Unit Limits:

Emission Unit Description	EU	EP	Pollutant / Parameter	Emission Limit	NDAC Applicable Requirement
Two hot oil heaters	H-1A & H-1B	H-1A & H-1B	Opacity	20% (40%*)	33-15-03-02
Two regeneration gas heaters	H-2A & H-2B	H-2A & H-2B	Opacity	20% (40%*)	33-15-03-02
Two Caterpillar emergency generator engines **	EGEN-1 & EGEN-2	EGEN-1 & EGEN-2	NO <sub>x</sub>	2.0 g/hp-hr or 160 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			CO	4.0 g/hp-hr or 540 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			VOC	1.0 g/hp-hr or 86 ppm @ 15% O <sub>2</sub>	33-15-12-02, Subpart JJJJ
			Opacity	20% (40%*)	33-15-03-02
			Operating Hours	**	33-15-12-02, Subpart JJJJ
Two process/emergency flares	FL-1 & FL-2	FL-1 & FL-2	Opacity	20% (60%*)	33-15-03-03.1

\* Permissible for not more than one six-minute period per hour.

\*\* The potential to emit for an emergency stationary reciprocating internal combustion engine (RICE) is based on operating no more than 100 hours per year for other than non-emergency uses [40 CFR 60, Subpart JJJJ, §60.4243(d); and 40 CFR 63, Subpart ZZZZ, §63.6640(f)]. For engines to be considered emergency stationary RICE under 40 CFR 60, Subpart JJJJ (§60.4243) or 40 CFR 63, Subpart ZZZZ (40 CFR §63.6640), engine operations must comply with non-emergency operating hour limits (50 and 100 hours per calendar year) as specified in the applicable subpart. There is no time limit on the use of emergency stationary RICE in emergency situations. See Cond. 7.B.4.

7. **Monitoring Requirements and Conditions:**

A. Requirements

<b>Emission Unit Description</b>	<b>EU</b>	<b>EP</b>	<b>Pollutant / Parameter</b>	<b>Monitoring Requirement (Method)</b>	<b>Condition Number</b>	<b>NDAC Applicable Requirement</b>
Two hot oil heaters	H-1A & H-1B	H-1A & H-1B	Opacity	Recordkeeping & Visible Emissions Observations (VEO)	7.B.1 & 7.B.2	33-15-14-06.5.a(3)(a)
Two regeneration gas heaters	H-2A & H-2B	H-2A & H-2B	Opacity	Recordkeeping & VEO	7.B.1 & 7.B.2	33-15-14-06.5.a(3)(a)
Two Caterpillar emergency generator engines	EGEN-1 & EGEN-2	EGEN-1 & EGEN-2	NO <sub>x</sub> /CO/VOC	Stack Test	7.B.5	33-15-12-02, Subpart JJJJ
			Opacity	Recordkeeping	7.B.1	33-15-14-06.5.a(3)(a)
			Operating Hours	Recordkeeping	7.B.4	33-15-12-02, Subpart JJJJ & 40 CFR 60, Subpart ZZZZ
Two process/emergency flares	FL-1 & FL-2	FL-1 & FL-2	Opacity	Recordkeeping & VEO	7.B.1, 7.B.2 & 7.B.3	33-15-14-06.5.a(3)(a)

B. Monitoring Conditions

- 1) For purposes of compliance monitoring, burning of pipeline quality natural gas as outlined in Condition 2, shall be considered credible evidence of compliance with any applicable opacity or SO<sub>2</sub> emission 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 burning of gaseous fuel as outlined in Condition 2, for evidence of compliance or noncompliance with any applicable opacity emission limit, in the event of enforcement action.
- 2) Once per week in which the emission unit is operated, a company representative (need not be certified) 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 the correction of the emissions is expected to take longer than 24 hours, the permittee shall follow procedures as outlined in Condition 10.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 emission limit and nothing in this condition shall be construed as authorizing otherwise.

- 3) If the flaring lasts longer than 24 hours, the permittee shall notify the Department as soon as possible during normal working 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.
- 4) A log shall be kept of the hours of operation of EGEN-1 and EGEN-2 to include the reason for operation (emergency, non-emergency, maintenance, etc.).

Applicable Requirements: NDAC 33-15-14-06.5a(3)(a), and NDAC 33-15-12-02 Subpart JJJJ and 40 CFR 63 Subpart ZZZZ.

- 5) Stack testing at EGEN-1 and EGEN-2 shall be conducted every 8,760 hours of operation or three years, whichever comes first, in accordance with 40 CFR 60, Subpart JJJJ.

**8. Recordkeeping Requirements:**

- A. The permittee shall maintain compliance monitoring records, as outlined in the Monitoring Records Table (below), that includes 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 for the engines (i.e., ambient conditions, horsepower calculations, suction/discharge pressures, testing rate compared to rated capacity, timing, air to fuel ratio and rpm that existed at the time of sampling or measurement.
  - 7) The records of quality assurance for emissions measuring systems including, but not limited to, quality control activities, audits and calibration drifts as required by the applicable test method, standard or monitoring equipment.
  - 8) A copy of all field data sheets from the emissions testing.

Applicable Requirement: NDAC 33-15-14-06.5.a(3)(b)[1]

**Monitoring Records Table**

<b>Emission Unit Description</b>	<b>EU</b>	<b>EP</b>	<b>Pollutant / Parameter</b>	<b>Compliance Monitoring Record</b>
Two hot oil heaters	H-1A & H-1B	H-1A & H-1B	Opacity	Fuel Type & Visible Emissions Observations (VEO) Data
Two regeneration gas heaters	H-2A & H-2B	H-2A & H-2B	Opacity	Fuel Type & Visible Emissions Observations (VEO) Data
Two Caterpillar emergency generator engines	EGEN-1 & EGEN-2	EGEN-1 & EGEN-2	NOx/CO/VOC  Opacity	Stack Test Data  Fuel Type Data  Operating Hours Data
Two process/emergency flares	FL-1 & FL-2	FL-1 & FL-2	Opacity	Fuel Type Data & VEO Data

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

Applicable Requirement: NDAC 33-15-14-06.5.a(3)(b)[2]

**9. Reporting:**

- A. The permittee shall submit a semi-annual monitoring report for all monitoring records required under Condition 8 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 33-15-14-06.5.a(3)(c)[1] and [2]

- B. The permittee shall submit an annual compliance certification report within 45 days after December 31 of each year on forms supplied or approved by the Department.

Applicable Requirement: NDAC 33-15-14-06.5.c(5)

- C. For emission units where the method of compliance monitoring is demonstrated by either 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 33-15-14-06.5.a(6)(e)

- D. 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 calendar year. Insignificant units/activities listed in this permit do not need to be included in the report.

Applicable Requirements: NDAC 33-15-14-06.5.a(7) and NDAC 33-15-23-04

10. **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 33-15-02 at any place beyond the premises on which the source is located.
- 2) Radioactive substances. The permittee shall not release into the ambient air any radioactive substances exceeding the concentrations specified in NDAC 33-10.
- 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 Requirement: NDAC 33-15-02-04

- B. **Fugitive Emissions:** The release of fugitive emissions shall comply with the applicable requirements in NDAC 33-15-17.

Applicable Requirement: NDAC 33-15-17

- 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 33-15-04-02 and may not conduct, cause, or permit the conduct of a salvage operation by open burning. Any permissible open burning under NDAC 33-15-04-02 must comply with the requirements of that section.

Applicable Requirement: NDAC 33-15-04

- D. **Asbestos Renovation or Demolition:** Any asbestos renovation or demolition at the facility shall comply with emission standard for asbestos in NDAC 33-15-13.

Applicable Requirement: NDAC 33-15-13-02

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

- 1) The owner/operator shall incinerate, flare or treat in an equally effective manner any organic compounds, gases and vapors which are generated as wastes as the result of storage, refining, or process operations and which contain hydrogen sulfide before being released to the ambient air.
- 2) Each flare must be equipped and operated with an automatic ignitor or a continuous burning pilot.

Applicable Requirement: NDAC 33-15-07-02

- 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 33-15-07-01.5

- 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 twenty-four 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 33-15-01-13.1

2) Malfunctions.

- a) When a malfunction in any installation occurs that can be expected to last longer than twenty-four 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 twenty-four-hour state radio emergency number 1-800-472-2121. If calling from out of state, the twenty-four-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, and 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 thirty days of the end of the calendar quarter in which the malfunction occurred or within thirty 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 33-15-01-13.2

- 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.

Applicable Requirement: NDAC 33-15-01-13.3

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

- b) 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 33-15-14-06.5.g

- I. **Air Pollution from Internal Combustion Engines:** The permittee shall comply with all applicable requirements of NDAC 33-15-08-01 – Internal Combustion Engine Emissions Restricted.

Applicable Requirement: NDAC 33-15-08-01

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

- 1) The permittee shall not permit or cause air pollution, as defined in NDAC 33-15-01-04.
- 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 33-15-01-15

- 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 23-25. 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 holes in 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 33-15-01-12

- 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. 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 33-15-14-06.5.a(3)(a), NDAC 33-15-12-02 Subpart A (40 CFR 60.8), NDAC 33-15-13-01.2 Subpart A (40 CFR 61.13), NDAC 33-15-22-03 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 33-15-10.

Applicable Requirements: NDAC 33-15-10-01 and NDAC 33-15-10-02

- 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 33-15-11.

Applicable Requirements: NDAC 33-15-11-01 through NDAC 33-15-11-04

- 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 33-15-14-06.5.b(1)

Q. **Prevention of Significant Deterioration of Air Quality (40 CFR 52.21 as incorporated by NDAC Chapter 33-15-15):** 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 33-15-15-01.2

## 11. **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 sixty 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 33-15-14-06.5.a(7) and NDAC 33-15-23-04

- B. **Permit Renewal and Expiration:** This permit shall be effective from the date of its issuance for a fixed period of 5 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 eighteen months, prior to the date of permit expiration. The Department shall approve or disapprove the renewal application within sixty 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 33-15-14-06.4 and NDAC 33-15-14-06.6

- C. **Transfer of Ownership or Operation:** This permit may not be transferred except by procedures allowed in Chapter 33-15-14 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 33-15-14-06.6.d

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

Applicable Requirement: NDAC 33-15-14-06.5.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, 2<sup>nd</sup> 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 33-15-14-06.4.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 33-15-14-06.5.c(2) and NDAC 33-15-01-06

- 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 23-25 and NDAC 33-15. 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 23-25. 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 33-15-14-06.5.a(6)(a) and NDAC 33-15-14-06.5.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 33-15-14-06.5.a(6)(e), NDAC 33-15-14-06.6.b(3) and NDAC 33-15-14-06.4.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 eighteen 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.

Applicable Requirement: NDAC 33-15-14-06.6.f(1)(c)

- 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 33-15-14-06.6.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 33-15-14-06.5.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 33-15-14-02 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 33-15-14-06. 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 33-15-14-06.6.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 33-15-14-06.6.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) Are not modifications under NDAC 33-15-12, 33-15-13, and 33-15-15 or any provision of Title I of the Federal Clean Air Act.
- 6) Are not required to be processed as a significant modification.

Applicable Requirement: NDAC 33-15-14-06.6.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 33-15-14-06.6.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 33-15-14-06.6.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 33-15-14-06.3 and NDAC 33-15-14-06.5.f(3)(a), (b) & (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 33-15-14-06.5.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 33-15-01-08

12. **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 33-15-16.

Applicable Requirement: NDAC 33-15-16

- B. **Hydrogen Sulfide Restriction:** The permit 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 under this section, 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 constitutes a violation. An ambient air analyzer designed for monitoring hydrogen sulfide (H<sub>2</sub>S) is the method used for determining the concentrations of emissions at the point of measurement, or other instrumental methods as approved by the Department.

Applicable Requirement: NDAC 33-15-16-02.1