

September 18, 2026

Ms. Leah Upchurch
City of Dickinson
3411 Public Works Boulevard
Dickinson, ND 58061
leah.upchurch@dickinsongov.com

Re: Air Quality
Title V (Renewal)
Permit to Operate

Dear Ms. Upchurch:

Pursuant to the Air Pollution Control Rules of the State of North Dakota, the Department of Environmental Quality (Department) has reviewed your permit application dated May 21, 2026, for the Dickinson Landfill located in Stark County, North Dakota.

Enclosed is a copy of the Department's draft/proposed Title V Permit to Operate and statement of basis for the facility. Before making final determinations on the permit application, the Department provides for public comment by means of the enclosed public notice, to be immediately followed by a 45-day Environmental Protection Agency (EPA) review period. As indicated in the notice, the 30-day public comment period will begin September 30, 2026 and end October 29, 2026.

If any changes are subsequently made to the draft permit, then a review copy of the proposed permit reflecting those changes will be provided to EPA prior to the start of a 45-day EPA review period. The 45-day EPA review period will begin October 30, 2026 and end December 13, 2026.

All comments received will be considered in the final determination concerning issuance of the permit. The Department will take final action on the permit application following the public comment period and the EPA review period. You will be notified in writing of our final determination.

If you have any questions, please contact me at (701)328-1337 or email kmthorsteinson@nd.gov.

Sincerely,



Kari Thorsteinson
Environmental Scientist
Division of Air Quality

KMT: RLS

xc/enc: EPA Region 8, Air Permitting (email – r8airpermitting@epa.gov)

NOTICE OF INTENT TO ISSUE AN
AIR POLLUTION CONTROL
TITLE V PERMIT TO OPERATE

Take notice that the North Dakota Department of Environmental Quality (NDDEQ) proposes to issue an Air Pollution Control Permit to Operate to City of Dickinson Public Works Department for operation of the Dickinson Landfill in accordance with the ND Air Pollution Control Rules. The facility is located at 3880 Lehigh Road, Dickinson, ND 58601 in Stark County. The facility accepts and disposes of municipal solid waste from the surrounding area. The City of Dickinson mailing address is 3411 Public Works Blvd, Dickinson, ND 58601. All updates in the renewal are administrative in nature.

A thirty-day public comment period for the draft permit will begin September 30, 2026 and end October 29, 2026. Direct comments in writing to the NDDEQ, Division of Air Quality, 4201 Normandy Street, Bismarck, ND 58503-1324 or email AirQuality@nd.gov, Re: Public Comment Permit Number AOP-28415. Please note that, to be considered, comments submitted by email must be sent to the email address listed; comments sent to any other email address **will not** be considered. Comments must be received by 11:59 p.m. central time on the last day of the public comment period to be considered in the final permit determination. A public hearing regarding issuance of the permit will be held if a significant degree of public interest exists as determined by the NDDEQ. Requests for a public hearing must be received in writing by the NDDEQ before the end of the public comment period.

The notice, draft permit, statement of basis and application are available for review at the NDDEQ address and at the Division of Air Quality website at <https://deq.nd.gov/AQ/PublicCom.aspx>. A copy of these documents may be obtained by writing to the Division of Air Quality or contacting Kari Thorsteinson at (701)328-1337 or emailing kmthorsteinson@nd.gov.

The NDDEQ will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. Language assistance services are available free of charge to you. To request accommodations or language assistance, contact the NDDEQ Non-discrimination/EJ Coordinator at 701-328-5150 or deqEJ@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

Dated this 18th day of September 2026.

James L. Semerad
Director
Division of Air Quality

City of Dickinson Public Works Department
City of Dickinson Landfill
Title V Permit to Operate No. AOP-28415 v2.0
Statement of Basis
(9/16/2026)

Facility Background:

The City of Dickinson Public Works Department, City of Dickinson Landfill is in Stark County, North Dakota. The facility is a municipal solid waste landfill with a design capacity of $\sim 3.678 \times 10^6$ yd³ ($\sim 2.81 \times 10^6$ m³) and an air curtain incinerator (ACI).

Chronology of significant events (not all-inclusive):

February 19, 2019 - A Title V PTO application was received for the City of Dickinson Landfill.

May 29, 2019 - Permit to Construct (PTC) No. PTC19017 (ACP-17921 v1.0) was issued for the ACI and associated engine.

November 23, 2021 - The initial Title V permit, AOP-28415 v1.0, was issued following the June 25, 2021 receipt and satisfactory review of 40 CFR 60 Subpart XXX, Tier 2 NMOC emissions testing results that was conducted in June 2019.

Current Action:

On May 21, 2026 the Department received a timely application from City of Dickinson Public Works Department for a renewed Title V permit for the City of Dickinson Landfill. All changes and updates in the draft permit are administrative in nature.

The Department proposes to issue Title V PTO No. AOP-28415 v2.0 after the required 30-day public comment period and subsequent 45-day EPA review period of the draft permit. This statement of basis summarizes the relevant information considered during the issuance of the Title V permit. The legal basis for each permit condition is stated in the draft permit under the heading of "Applicable Requirement."

Applicable Programs/As-Needed Topics:

1. **Title V.** The facility requires a Title V Permit to Operate based on applicability of the regulation, not on actual emissions. The facility is considered a minor/area source of Hazardous Air Pollutant (HAP) emissions because individual and combined potential annual HAP emissions are below 10 tpy and 25 tpy, respectively.
2. **New Source Performance Standards (NSPS).** The following NDAC 33.1-15-12-02 and 40 CFR 60 subparts apply to the facility.

Subpart A, General Provisions, applies to all source units to which another NSPS subpart applies.

Subpart XXX, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, applies to the landfill (EU 1) because construction, reconstruction or modification was commenced on or before July 17, 2014, and because the design capacity is greater than $2.5 \times 10^6 \text{ m}^3$ (2.5×10^6 megagrams).

Subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units, applies to the landfill due to the installation of an air curtain incinerator (EU 2).

Subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (EU 3).

3. **National Emission Standards for Hazardous Air Pollutants (NESHAP).** The following NDAC 33.1-15-13 and 40 CFR 61 subparts apply at the facility:

Subpart A, General Provisions, applies to all source units to which another NESHAP subpart applies.

Subpart M, National Emission Standard for Asbestos, applies to the landfill (EU 1). The North Dakota Department of Environmental Quality has not adopted the provisions of this subpart; all required reports and documentation are to be sent to EPA Region 8.

4. **NESHAP/Maximum Achievable Control Technology (MACT).** The following NDAC 33.1-15-22-03 and 40 CFR 63 subparts apply to the facility, which is an area source of HAP emissions.

Subpart A, General Provisions, applies to all source units to which another MACT subpart applies.

Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, applies to the engines (EU 3). As an area source of HAPs, compliance with this subpart is achieved through compliance with Subpart IIII. North Dakota has not adopted the area source provisions of this subpart; all required reports and documentation are to be sent to EPA Region 8.

5. **Acid Rain.** NDAC 33.1-15-21 (40 CFR 72, 73, 75 and 76) does not apply to the facility since the plant is not an existing electric utility steam generating plant rated at greater than 25 MWe.
6. **Prevention of Significant Deterioration (PSD).** The facility is not a major source under NDAC 33.1-15-15 (40 CFR 52) because it does not have the potential to emit more than 250 tons per year of a regulated air contaminant during normal operations; therefore, this permit is not subject to PSD review.

7. **Best Available Control Technology (BACT).** Since the facility is not a major PSD source and does not contain changes that increase the potential emissions by a PSD-significant amount, a BACT review is not required for this permit. This facility also does not have any required control technology.
8. **Gap Filling.** Although the permit does contain gap filling for some opacity monitoring not otherwise required by rule, this draft renewal permit does not contain significant revisions to previously permitted gap filling. The gap filling conditions are generally identified by the applicable requirement NDAC 33.1-15-14-06.5.a(3)(a).
9. **Streamlining Decisions.** Not applicable because no streamlining was involved
10. **Compliance Assurance Monitoring (CAM).** CAM does not apply because there is no add-on air pollution control equipment installed that is required to achieve compliance.
11. **Permit Shield.** Does not apply because the permit to operate does not contain a permit shield.
12. **New Conditions/Limits.** There are no new condition or limits in this draft permit.
13. **40 CFR 98 - Mandatory Greenhouse Gas Reporting.** This rule requires sources above certain emission thresholds or in certain supplier thresholds to calculate, monitor and report greenhouse gas emissions. According to the definition of "applicable requirement" in 40 CFR 70.2, neither Subpart 98, nor Clean Air Act Section 307(d)(1)(V), the CAA authority under which Subpart 98 was promulgated, are listed as applicable requirements for the purpose of Title V permitting. Although the rule is not an applicable requirement under 40 CFR 70, the source is not relieved from the requirement to comply with the rule separately from compliance with their Part 70 operating permit. It is the responsibility of each source to determine applicability to the subpart and to comply, if necessary.

Permit Changes by Section:

Note: Administrative changes were made to some sections of the permit to update to the current North Dakota (ND) format and to correct errors. These changes may not be specifically addressed below.

Cover: The permit version, expiration date and renewal date were updated.

Table of Contents: Page numbers were updated as necessary.

1. **Emission Unit Identification:** The air curtain destructor name was corrected to air curtain incinerator (ACI). The condition reference for EU FUG was updated. The footnote for the ACI engine was combined into the emission unit description and the manufactured year (2018) was added.
2. **Applicable Standards and Miscellaneous Conditions:** The order of the conditions were changed to match current format. 40 CFR 63, Subpart ZZZZ language was updated. The

engine replacement standard condition was updated with the standard emission unit replacement condition.

3. **Emission Unit Limits:** The emission unit descriptions for the ACI was updated. Footnote F on the ACI engine was removed as it is duplicative of the condition 2.D.1) for 40 CFR 63 Subpart ZZZZ compliance.
4. **Monitoring Requirements and Conditions:** The emission unit descriptions for the ACI was updated. A footnote listing the abbreviations used in the table was added.
5. **Recordkeeping Requirements:** The emission unit descriptions for the ACI was updated.
6. **Reporting:** Condition No. 6.B and 6.C were updated to reflect the ND standard format for applicable reporting requirements.
7. **Facility Wide Operating Conditions:** No Changes.
8. **General Conditions:** No Changes.
9. **State Enforceable Only Conditions (not Federally enforceable):** No Changes.

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

Permittee: Name: City of Dickinson Public Works Department Address: 3411 Public Works Boulevard Dickinson, ND 58601	Permit Number: AOP-28415 v2.0 Source Name: City of Dickinson Landfill
Source Location: 3880 Lehigh Road Dickinson, ND 58601 Stark County	Source Type: Landfill and Air Curtain Incinerator (ACI)
Expiration Date: November 23, 2031	

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

Renewal: _____

James L. Semerad
Director
Division of Air Quality

City of Dickinson Landfill
Title V Permit to Operate
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1. **Emission Unit Identification:**

The emission units regulated by this permit are as follows:

Table 1.1 Emission Unit Identification

Emission Unit Description	Emission Unit (EU)	Emission Point (EP)	Air Pollution Control Equipment
Municipal solid waste landfill with a total capacity of approximately $2.81 \times 10^6 \text{ m}^3$ ($\sim 3.678 \times 10^6 \text{ yd}^3$) of waste (NSPS XXX; NESHAP M)	1	1	None ^A
Air curtain incinerator (ACI) rated up to 7 tons/hr (NSPS CCCC)	2	2	None
ACI diesel-fired engine (2018) (NSPS IIII, Tier 4; MACT ZZZZ)	3	3	Diesel Oxidation Catalyst
Fugitive Dust Emissions	FUG ^B	FUG	Fugitive Dust Control Condition 2.F

^A Future changes in the estimated size of the landfill or the kind of waste disposed, which could change the Nonmethane Organic Compound (NMOC) emissions, may result in required control equipment per Condition 6.A.

^B Insignificant or fugitive emission sources (no specific emission limit).

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

A. **Fuel Restrictions:** The engine (EU 3) is restricted to combusting only distillate oil with no more than 0.0015 percent sulfur by weight. This fuel restriction ensures compliance with NDAC 33.1-15-06-01.2.

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

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

- 1) Subpart XXX – Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification after July 17, 2014 (EU 1).
- 2) Subpart CCCC – Standards of Performance for Commercial and Industrial Solid Waste Incineration Units (EU 2).
- 3) Subpart IIII – Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (EU 3).

Applicable Requirements: NDAC 33.1-15-12-02, Subparts XXX, CCCC, and IIII

- C. **Emission Standards for Hazardous Air Pollutants (NESHAP):** The permittee shall comply with all applicable requirements of the following NDAC 33.1-15-13 and 40 CFR 61 subparts in addition to complying with Subpart A - General Provisions.

- 1) Subpart M – National Emission Standard for Asbestos (EU 1). The North Dakota Department of Environmental Quality has not adopted the provisions of this subpart. Please send all documentation in accordance with EPA regulations to EPA Region 8.

Applicable Requirement: 40 CFR 61, Subpart M

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

- 1) Subpart ZZZZ - National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (EU 3). As an area source of HAP emissions, compliance with 40 CFR 63, Subpart ZZZZ is achieved by complying with 40 CFR 60, Subpart IIII. The North Dakota Department of Environmental Quality has not adopted the area source provisions of this subpart. Please send all documentation in accordance with EPA regulations to U.S. EPA Region 8.

Applicable Requirement: 40 CFR 63, Subpart ZZZZ

- E. **Material Restrictions:** Only 100% wood waste, 100% clean lumber and/or yard waste (including compost free of plastic) shall be burned. Burning preservative treated wood, rubber (tires), asphalt shingles, and other materials that generate hazardous air pollutants is strictly prohibited (EU 2).

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

- F. **Fugitive Dust Control:** The permittee shall control Fugitive Dust (EU FUG) as follows:

- 1) Implement watering during land clearing, topsoil and overburden removal, and other material handling operations, unless natural moisture is sufficient to control fugitive particulate emissions.
- 2) Water stockpiles, both active and inactive, as necessary to control fugitive particulate emissions.
- 3) Vegetate closed landfill surfaces within one year of disturbance.
- 4) Water unpaved on-site haul roads as often as necessary to control fugitive particulate emissions.
- 5) Limit vehicle speeds on unpaved roads and disturbed areas on-site.
- 6) Minimize the size of the working face.

- 7) Apply cover to disposed solid waste as often as practical. The application of cover shall serve to control fugitive particulate emissions, odor production, and accumulation of litter. If the planned operations are shown to be ineffective in controlling any of the mentioned issues, remedial action shall be taken on a case-by-case basis.

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

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

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

Applicable Requirements: Permit to Construct No. ACP-17921 v1.0 and NDAC 33.1-15-14-06.5.b(1)

3. Emission Unit Limits:

Table 3.1 Emission Unit Limits

Emission Unit Description	EU	EP	Pollutant/ Parameter	Emission Limit	NDAC Applicable Requirement
Municipal solid waste landfill	1	1	NMOC or NMOC & Surface Emissions of Methane (SEM)	34 Mg/yr threshold ^{A, B} or ≥34 Mg/yr & <50 Mg/yr & <500 ppm thresholds ^{B, C}	33.1-15-12-02, Subpart XXX
ACI	2	2	Opacity	≤10% ^D	ACP-17921 v1.0 & 33.1-15-12-02, Subpart CCCC

Emission Unit Description	EU	EP	Pollutant/ Parameter	Emission Limit	NDAC Applicable Requirement
ACI Engine	3	3	Opacity	20% ^E	ACP-17921 v1.0 & 33.1-15-03-02

- ^A As determined by Tier 1, Tier 2, or Tier 3 of the subpart.
^B Exceeding the emission limit (threshold) requires additional monitoring or control as outlined in Condition 4.A, 4.B, 5, and 6, respectively.
^C As determined by Tier 4 and either Tier 1 or Tier 2 of the subpart.
^D Opacity less than or equal to 35% is permissible for not more than 30 minutes upon start-up.
^E 40% permissible for not more than one six-minute period per hour.

4. **Monitoring Requirements and Conditions:**

A. **Requirements:**

Table 4.1 Emission Monitoring

Emission Unit Description	EP	Pollutant/ Parameter	Monitoring Requirement (Method)	Condition Number	NDAC Applicable Requirement
Municipal solid waste landfill	1	NMOC (as hexane)	NMOC Emissions Sampling/Calculation or NMOC Emissions Sampling/Calculation & SEM Monitoring	4.B	33.1-15-12, Subpart XXX
ACI	2	Opacity	Annual Visible Emissions Test (Method 9)	4.C	33.1-15-12, Subpart CCCC
ACI Engine	3	PM, NO _x , & CO ^A	Engine Certification	4.D.2 & 4.D.3	33.1-15-14-06.5.a(3)(a) 33.1-15-12, Subpart IIII
		Opacity	Recordkeeping	4.D.1	33.1-15-14-06.5.a(3)(a)

^A Abbreviations are as follows: filterable and condensable particulate matter (PM), oxides of nitrogen (NO_x) and carbon monoxide (CO).

- B. **NMOC Monitoring (EU 1):** The permittee shall calculate the annual NMOC emission rate per Equation 1 and/or Equation 2 provided in NDAC 33.1-15-12, Subpart XXX, §60.764(a)(1)(i) and/or (a)(1)(ii) depending upon the known actual year-to-year solid waste acceptance rate. As a result of the NMOC emission rate calculated per the aforementioned equations, monitoring shall be conducted as outlined below.

1) **Tier 1:**

- a) If the NMOC emission rate is less than 34 Mg/year, the permittee shall recalculate the NMOC annually according to §60.762(b) and submit an annual NMOC

emission rate report (annual emissions inventory report) per §60.767(b), unless the provisions of §60.767(b)(1)(ii) are met.

- b) If the NMOC emission rate is equal to or greater than 34 Mg/year, the permittee shall conduct one of the following:
 - 1] Within one year of determining an NMOC emission rate equal to or greater than 34 Mg/year, submit a gas collection and control system design per §60.767(c), operate the system within 30 months according to §60.762(b)(2)(ii) and (iii), and conduct monitoring per §60.766;
 - 2] Use the Tier 2 site-specific NMOC concentration recalculation method specified in §60.764(a)(3) and Condition 4.B.2); or
 - 3] Determine the site-specific methane generation rate constant per Tier 3 methods as specified in §60.764(a)(4) and Condition 4.B.3).
- 2) **Tier 2:** The permittee shall determine the site-specific NMOC concentration per the method specified in §60.764(a)(3) and recalculate the NMOC mass emission rate per §60.764(a)(1)(i) or (a)(1)(ii) using the average site-specific NMOC concentration from the collected samples in lieu of the default value.
 - a) If the NMOC emission rate is less than 34 Mg/year according to §60.764(a)(3), the permittee shall recalculate the NMOC mass emission rate annually per §60.762(b) and the site-specific (Tier 2) testing must be conducted every five years.
 - b) If the NMOC mass emission rate is equal to or greater than 34 Mg/year, the permittee shall conduct one of the following:
 - 1] Within one year of determining an NMOC emission rate equal to or greater than 34 Mg/year, submit a gas collection and control system design per §60.767(c), operate the system within 30 months according to §60.762(b)(2)(i) and (iii), and conduct monitoring per §60.766;
 - 2] Determine the site-specific methane generation rate constant per Tier 3 methods specified in §60.764(a)(4) and Condition 4.B.3).; or
 - 3] Conduct Tier 4 surface methane emissions monitoring per §60.764(a)(6) and Condition 4.B.4).
- 3) **Tier 3:** The permittee shall determine a site-specific methane generation constant according to 40 CFR 60 Appendix A-1 Method 2E and a site-specific NMOC concentration according to §60.764(a)(3). The NMOC mass emission rate must be recalculated per §60.764(a)(1)(i) or (a)(1)(ii) using the average site-specific NMOC concentration from the collected samples and the site-specific methane generation constant in lieu of the default values.

- a) If the NMOC emission rate (Tier 3 monitoring) is less than 34 Mg/year, then the permittee must recalculate the NMOC annually, using the Tier 2 and Tier 3 site-specific values, according to §60.764(a)(1)(i) or (a)(1)(ii).
- b) If the NMOC mass emission rate is equal to or greater than 34 Mg/year, the permittee shall conduct one of the following:
 - 1] Within in one year of determining an NMOC emission rate equal to or greater than 34 Mg/year, submit a gas collection and control system design per §60.767(c), then install, and operate the system within 30 months according to §60.762(b)(2)(ii) and (iii), and conduct monitoring per §60.766; or
 - 2] Conduct Tier 4 surface methane emissions monitoring per §60.764(a)(6) and Condition 4.B.4).
- 4) **Tier 4:** The NMOC emission rate shall be equal to or greater than 34 Mg/year but less than 50 Mg/year to qualify for Tier 4 monitoring. The permittee shall demonstrate that the surface methane emissions are below 500 ppm on a quarterly basis according to §60.764(a)(6). Monitoring shall be conducted per §60.764(a)(6).
 - a) For facilities that report a site-specific methane concentration greater than 500 parts per million from the landfill surface, the permittee shall submit a gas collection and control system design per §60.767(c) operate the system within 30 months according to §60.762(b)(2)(ii) and (iii).
- C. **ACI Monitoring (EU 2):** The permittee shall conduct an EPA Reference Method 9 opacity test annually and no more than 12 months following the date of the previous test as specified in 40 CFR 60, Subpart CCCC, §60.2255(a) and (c).
- D. **ACI Engine Monitoring (EU 3):**
 - 1) For purposes of compliance monitoring, the burning of low sulfur distillate oil shall be considered credible evidence of compliance with the applicable opacity standard. However, results from 40 CFR 60, Appendix A, Method 9 - Visual Determination of the Opacity of Emissions will take precedence over the burning of distillate oil, for evidence of compliance or noncompliance with the applicable opacity standard.
 - 2) Collect operational and maintenance data to demonstrate that the facility complies with the engine manufacture's emissions-related written instructions in 40 CFR §60.4211(a).
 - 3) For certified engines, collect operational and maintenance data to demonstrate that the facility complies with the engine manufacturer's emission-related written instructions [40 CFR 60.4211(a)].

5. **Recordkeeping Requirements:**

A. The permittee shall maintain compliance monitoring records as outlined in the Monitoring Records table that include the following information.

- 1) The date, place (as defined in the permit) and time of sampling or measurement.
- 2) The date(s) testing was performed.
- 3) The company, entity, or person that performed the testing.
- 4) The testing techniques or methods used.
- 5) The results of such testing.
- 6) The operating conditions that existed at the time of sampling or measurement.

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

Table 5.1 Monitoring Records

Emission Unit Description	EP	Pollutant/ Parameter	Compliance Monitoring Record
Municipal solid waste landfill	1	NMOC or NMOC & SEM Monitoring	NMOC Calculations/Emissions Test Data or NMOC Calculations/Emissions Test Data & Surface Emission Monitoring of Methane Data
ACI	2	Opacity	Annual Visible Emissions Test Data – Maintain test records for 5 years
ACI Engine	3	PM, NO _x & CO Opacity	Maintain Records & Maintenance Plan(s) Fuel Type Data & Operational/Maintenance Data

B. **Recordkeeping Conditions:**

- 1) The permittee shall retain readily accessible paper or electronic records per 40 CFR 60, §60.768, including the design capacity, the current amount of solid waste in-place, and the year-by-year acceptance rate. Off-site records that are retrievable within four hours may be maintained in lieu of on-site records.

Applicable Requirement: NDAC 33.1-15-12, Subpart XXX

- 2) Tier 4 Recordkeeping: Permittees demonstrating compliance per Tier 4 site-specific surface methane emissions monitoring shall maintain records per §60.768(g).

Applicable Requirement: NDAC 33.1-15-12, Subpart XXX

- 3) Recordkeeping for the ACI (EU 2) shall be in accordance with 40 CFR 60, Subpart A, §60.7, Notification and Recordkeeping and 40 CFR 60, Subpart CCCC, §60.2175 through §60.2235.

Applicable Requirement: NDAC 33.1-15-12, Subparts A and CCCC

- 4) Recordkeeping for ACI engine (EU 3) shall be in accordance with 40 CFR 60, Subpart A, §60.7, Notification and Recordkeeping and 40 CFR 60, Subpart IIII, §60.4214.

Applicable Requirements: NDAC 33.1-15-12, Subparts A and IIII

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

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

6. **Reporting:**

A. **NMOC Reporting (EU 1):**

- 1) The permittee shall conduct reporting according to 40 CFR §60.767 and, if applicable, shall submit an annual NMOC emission rate report [annual emissions inventory report (AEIR)] in a format provided or approved by the Department. This report shall be submitted by March 15 of each year, unless the provisions of §60.767(b)(1)(ii) are met, or the permittee elects to install a collection and control system that complies with §60.762(b)(2)(ii) and (iii). Insignificant units/activities listed in this permit do not need to be included in the report.

Applicable Requirements: NDAC 33.1-15-12, Subpart XXX, NDAC 33.1-15-14-06.5.a(7) and NDAC 33.1-15-23-04

2) **Tier 1:**

- a) If the five consecutive year annual emission rate is less than 34 Mg/year, then an estimate of the NMOC emission rate over that five-year period may be submitted in lieu of an annual report. The five consecutive year report shall be revised every five-year period and the report shall include the following:

- b) the current mass of solid waste at the facility; and
- c) the estimate waste acceptance rate for each of the five years for which an NMOC emission rate is estimated.

Applicable Requirements: NDAC 33.1-15-12, Subpart XXX and NDAC 33.1-15-23-04

- 3) **Tier 2:** The permittee shall submit the NMOC concentration, and corresponding NMOC emission rate calculated per §60.764(a)(3) to the Department within 60 days after the determination of the results of the Tier 2 evaluation.
 - a) If the Tier 2 calculation demonstrates that the NMOC is less than 34 Mg/year, then the permittee shall submit a periodic estimate of the NMOC emission rate per §60.767(b)(1).
 - b) If using the site-specific NMOC concentration obtained from Tier 2 procedures result in a NMOC emissions rate equal to or greater than 34 Mg year, then the permittee shall conduct reporting according to Tier 3 (Condition 6.A.4) or Tier 4 (Condition 6.A.5) reporting requirements.

Applicable Requirements: NDAC 33.1-15-12, Subpart XXX and NDAC 33.1-15-23-04

- 4) **Tier 3:**
 - a) If the Tier 2 site specific NMOC concentration and Tier 3 site-specific methane generation rate is less than 34 Mg/year, then the permittee shall submit an annual NMOC emission rate report as provided in §60.767(b)(1) unless the provisions of §60.767(b)(1)(ii) are met.
 - b) If the Tier 2 site specific NMOC concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 Mg/year, then the permittee shall either:
 - 1] Conduct reporting according to Tier 4 procedures specified in §60.764(a)(6) once, and that value shall be use in all annual NMOC emission rate calculations; or
 - 2] Submit a gas collection and control system design plan according to §60.767(c),, then install and operate the system within 30 months per §60.762(b)(2)(ii) and (iii).

Applicable Requirements: NDAC 33.1-15-12, Subpart XXX and NDAC 33.1-15-23-04

- 5) **Tier 4:** For facilities that elect to monitor site specific surface methane emissions per §60.764(a)(6), the permittee shall conduct Tier 4 reporting according to §60.767(c)(4)(iii).

- a) For facilities that report a site-specific methane concentration greater than 500 parts per million from the landfill surface, the permittee shall submit a gas collection and control system design per §60.767(c), operate the system within 30 months according to §60.762(b)(2)(ii) and (iii), and conduct reporting per §60.767.
- b) For facilities that demonstrate site-specific methane concentration less than 500 parts per million, the permittee shall submit an annual Tier 4 methane surface emission report (annual emissions inventory report).

Applicable Requirements: NDAC 33.1-15-14-02, Subpart XXX and NDAC 33.1-15-23-04

B. ACI Reporting (EU 2): Reporting shall be in accordance with the following applicable requirements for NDAC 33.1-15-12-02.

- 1) 40 CFR 60, Subpart A, §60.7, Notifications and Recordkeeping.
- 2) 40 CFR 60, Subpart CCCC §60.2260, Recordkeeping and Reporting Requirements.

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

C. ACI Engine Reporting (EU 3): Reporting shall be in accordance with the following applicable requirements for NDAC 33.1-15-12-02.

- 1) 40 CFR 60, Subpart A, §60.7, Notifications and Recordkeeping.
- 2) 40 CFR 60, Subpart IIII §60.4214, Recordkeeping and Reporting Requirements.

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

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

Applicable Requirements: NDAC 33.1-15-12-02, Subpart CCCC and NDAC 33.1-15-14-06.5.c(5)

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

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

7. **Facility Wide Operating Conditions:**

A. **Ambient Air Quality Standards:**

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

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

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

Applicable Requirement: NDAC 33.1-15-17

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

Applicable Requirement: NDAC 33.1-15-04

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

Applicable Requirement: NDAC 33.1-15-13-02

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

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

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

Applicable Requirement: NDAC 33.1-15-07-02

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

Applicable Requirement: NDAC 33.1-15-07-01.5

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

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

Applicable Requirement: NDAC 33.1-15-01-13.1

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

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

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

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

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

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

Applicable Requirement: NDAC 33.1-15-01-13.2

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

Applicable Requirement: NDAC 33.1-15-01-13.3

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

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

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

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

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

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

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

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

Applicable Requirement: NDAC 33.1-15-08-01

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

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

Applicable Requirement: NDAC 33.1-15-01-15

- K. **Performance Tests:**

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

Applicable Requirement: NDAC 33.1-15-01-12

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

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

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

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

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

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

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

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

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

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

Applicable Requirement: 40 CFR 82

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

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

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

Applicable Requirement: 40 CFR 68

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

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

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

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

Applicable Requirement: NDAC 33.1-15-15-01.2

8. **General Conditions:**

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

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

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

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

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

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

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

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

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

- E. **Submissions:**

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

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

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

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

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

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

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

- G. **Compliance:** The permittee must comply with all conditions of this permit. Any noncompliance with a federally-enforceable permit condition constitutes a violation of the Federal Clean Air Act. Any noncompliance with any State enforceable condition of this permit constitutes a violation of NDCC Chapter 23.1-06 and NDAC 33.1-15. Violation of any condition of this permit is grounds for enforcement action, for permit termination, revocation and reissuance or modification, or for denial of a permit renewal application. Noncompliance may also be grounds for assessment of penalties under the NDCC 23.1-06. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

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

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

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

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

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

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

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

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

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

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

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

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

- 1) Corrects typographical errors.

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

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

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

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

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

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

N. Significant Modifications:

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

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

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

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

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

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

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

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

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

- Q. **Severability Clause:** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

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

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

Applicable Requirement: NDAC 33.1-15-01-08

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

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

Applicable Requirement: NDAC 33.1-15-16