

## II. GENERAL OPERATING PERMIT CONDITIONS

Terms and conditions of this permit are in accordance with the requirements of Title 129, Chapter 8, Section 001. The applicable requirement is listed with each permit condition.

(A) Submittals/Reporting:

All submittals, including reports, required by Condition II.(A) and Condition I.(N)(1)(g) shall contain a certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete (Title 129, Chapter 1, Section 135; Chapter 7, Section 008; and Chapter 8, Section 012.01).

The permittee shall submit reports to the NDEQ as follows:

- (1) The permittee shall submit a report of applicable monitoring and all instances of deviations from permit requirements every six (6) calendar months to the NDEQ. The report for the first six (6) months (January through June) shall be submitted by September 30 of each year. The report for the second six (6) months (July through December) shall be submitted by March 31 of the following year (Title 129, Chapter 8, Section 004.03A).
- (2) The permittee shall report all deviations from permit requirements, including those attributable to start-ups, shutdowns or malfunctions, the probable cause of such deviations, and any corrective actions or preventive measures taken. The probable cause, corrective actions, or preventive measures do not have to be provided if that information has already been submitted in other reports to the NDEQ, such as for 40 CFR 60.7; however reported deviations must reference these other reports. All reports of deviations must be submitted within the time frame as per Conditions II.(A)(2)(a), (b), and (c) below (Title 129, Chapter 11, Chapter 8, Sections 004.03B and 004.04, and Chapter 35, Sections 004 and 005).
  - (a) Any deviation resulting from emergency or upset conditions shall be reported within two (2) working days of the date on which the permittee first becomes aware of the deviation if the permittee wishes to assert the affirmative defense authorized under Chapter 11 of Title 129. The report may be submitted initially without a certification by the responsible official, as required by Condition II.(A) above, if an appropriate certification is provided within ten (10) days thereafter, together with the information required under Condition II.(A)(~~32~~) and any corrected or supplemental information required concerning the deviation.
  - (b) Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable. The report may be submitted initially without a certification by a responsible official in accordance with Condition II.(A) above, if an appropriate certification is provided within ten (10) days thereafter, together with any corrected or supplemental information required concerning the deviation.
  - (c) All other deviations shall be reported as per Condition II.(A)(1).

**OR**

*{Optional – Use only if the permit identifies deviations that need more frequent reporting.}*

- (c) Deviations identified in Condition(s) **{permit condition number(s)}** shall be

reported as per the time frame established in that condition. All other deviations shall be reported as per Condition II.(A)(1).

- (3) The permittee shall submit completed emission inventory forms for the preceding calendar year to the NDEQ by March 31 of each year (Title 129, Chapter 6).
  - (4) The permittee shall submit fees, due July 1 of each year, based on the actual emission tonnage, up to and including 4,000 tons per year for each regulated pollutant for fee purposes, as established in the emission inventory for the previous calendar year (Title 129, Chapter 1, Section 132 and Chapter 8, Section 008 and Chapter 29).
  - (5) Certification of compliance with the terms and conditions of this permit, including emission limitations, standards, or work practices, for the preceding calendar year, shall be submitted to the NDEQ and to USEPA Region VII's Air Compliance Coordinator by March 31 of each year. The report shall be certified by a responsible official in accordance with Condition II.(A) and shall include the following (Title 129, Chapter 8, Section 012.05).
    - (a) The identification of each term or condition of the permit that is the basis of the certification;
    - (b) The compliance status;
    - (c) A determination of whether compliance was continuous or intermittent; and
    - (d) The methods used for determining the compliance status of the source, currently and over the reporting period.
  - (6) Any emissions due to malfunctions, unplanned shutdowns, and ensuing start-ups that are, or may be in excess of applicable emission limitations shall be reported to the NDEQ in accordance with Condition II.(A)(2)(a).
- (B) The permittee shall comply with 40 CFR part 82, Protection of the Stratospheric Ozone. Affected controlled substances include, but are not limited to, chlorofluorocarbons and hydrochlorofluorocarbon refrigerants, halons, carbon tetrachloride, and methyl chloroform (specific affected controlled substances are listed in 40 CFR part 82, Subpart A, Appendices A, (Class I) and B (Class II).

The following subparts and Sections of 40 CFR part 82 are conditions of this permit:

Subpart A - Production and Consumption Controls

Subpart B - Servicing of Motor Vehicle Air Conditioners

Subpart E - Labeling of Products Using Ozone-Depleting Substances: Sections 82.106 Warning statement requirements, 82.108 Placement of warning statement, 82.110 Form of label bearing warning statement, and 82.112 Removal of label bearing warning statement.

Subpart F- Recycling and Emissions Reduction: Sections 82.156 Required practices, 82.158 Standards for recycling and recovery equipment, 82.161 Technician certification, and 82.166 Reporting and recordkeeping requirements

Subpart G -Significant New Alternatives Policy Program

**Commented [DC1]:** Change to 400 tpy when dealing with: Whelan Energy Center, Unit 1; Lon D Wright; or, Platte Energy Center.

Class I Operating Permit #  
Issued: DRAFT

Source Name  
FID #

- (C) ~~This permit is issued for a fixed term of five (5) years. A timely renewal application is one that is submitted to the NDEQ a minimum of six (6) months and a maximum of eighteen (18) months before permit expiration. Provided a timely and complete renewal application has been submitted, the conditions of this permit shall continue until the effective date of a new permit. (Title 129, Chapter 8, Section 003 and Chapter 7, Section 002.06) This permit is issued for a fixed term of five (5) years. A renewal application shall be submitted to the NDEQ a minimum of six (6) months and a maximum of eighteen (18) months before permit expiration. Provided their application is submitted within the above timeframe, the source may continue to operate without a permit from the date the application is determined to be complete until final action on the application is taken by the NDEQ (Title 129, Chapter 8, Section 003, and Chapter 7, Section 002.06 and Section 003.04).~~
- (D) The permittee shall comply with all conditions of this permit. Any permit noncompliance shall constitute a violation of the Nebraska Environmental Protection Act and/or the Federal Clean Air Act, and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application (Title 129, Chapter 8, Section 007.01).
- (E) It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit (Title 129, Chapter 8, Section 007.02).
- (F) This permit may be modified; revoked, reopened, and reissued; or terminated for cause in accordance with Title 129 and Title 115, Rules of Practice and Procedure. 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 supersede any permit condition (Title 129, Chapter 8, Section 007.03).
- (G) Conditions under which this permit will be reopened, revoked and reissued or terminated during its term for cause, include but are not limited to (Title 129, Chapter 15, Section 006.01 and Chapter 8, Section 010):
- (1) Additional applicable requirements under the Nebraska Environmental Protection Act or the Federal Clean Air Act, which become applicable to this source with a remaining permit term of three (3) or more years. No such reopening will occur if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended;
  - (2) Additional requirements, including excess emissions requirements, that become applicable to an affected source under the acid rain program under Chapter 26;
  - (3) A determination by the Director or the Administrator of USEPA that:
    - (a) The permit must be revoked and reissued to ~~ensure~~ assure compliance with the applicable requirements;
    - (b) The permit contains a material mistake or that inaccurate statements were made in the emissions standards or other terms or conditions of the permit;
    - (c) An applicable requirement or applicable requirement under the Federal Clean Air Act applies which was not identified by the permittee in its application.
- (H) This permit does not convey any property rights of any sort, or any exclusive privilege (Title 129, Chapter 8, Section 007.04).
- (I) The permittee shall furnish to the NDEQ, within the time specified by the NDEQ, any information requested by the NDEQ in writing to determine whether cause exists for

modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the NDEQ copies of records required to be kept in accordance with the permit or, for information claimed to be confidential, the permittee may furnish such records along with a claim of confidentiality pursuant to Title 115 - Rules of Practice and Procedure (Title 129, Chapter 8, Section 007.05).

- (J) The provisions of this permit supersede the provisions of any previously issued operating or construction permit. The applicable requirements of previously issued construction permits are now conditions of this permit (Title 129, Chapter 8, Sections 002 and 007.06).
- (K) In the event of a challenge to any portions of this permit, the unchallenged permit requirements shall remain valid (Title 129, Chapter 8, Section 006).
- (L) Changes allowed without an operating permit revision (Title 129, Chapter 15, Section 007):
  - (1) The permittee may make the changes identified in Condition II.(L)(1)(a) within a permitted facility without a permit revision if the change is not a modification under Title 129, Chapters 18, 23, 27, or 28; the change does not require a construction permit under Chapters 17 or 19; and the change does not result in the emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions) being exceeded. The permit shield in Condition II.(M) shall not apply to any change made under this condition (Title 129, Chapter 15, Section 007.01).
  - (a) Changes in the configuration of the facility's equipment, defined as "Section 502(b)(10) changes", as defined in Title 129, Chapter 1, Section 139 (Title 129, Chapter 15, Section 007.01A). Written notification of these changes shall be sent to the NDEQ and the administrator of EPA as follows:
    - (i) Non-Emergencies (Title 129, Chapter 1, Section 139; Chapter 15, Section 007.01):
      1. Written notification shall be received by the NDEQ a minimum of seven (7) days in advance of the proposed changes;
    - (ii) Emergencies (Title 129, Chapter 1, Section 139; Chapter 15, Section 007.01):
      1. Initial notification shall be made within two working days of the date on which the permittee first becomes aware of the need for the change;
      2. A follow-up written notification shall be submitted as soon as practicable; and,
      3. The notifications shall include an explanation of the nature of the emergency.
    - (iii) Required information (Title 129, Chapter 15, Section 007.01.A):
      1. A brief description of the change within the permitted source (Chapter 15, Section 007.01A1);
      2. The date on which the change will occur (Chapter 15, Section 007.01A2);
      3. Any change in emissions (Chapter 15, Section 007.01A3); and,

Commented [DC2]: This statement only needed where the source has requested a permit shield.

4. Any permit term or condition that is no longer applicable as a result of the change (Chapter 15, Section 007.01A4).
- (iv) A copy of the notification shall be attached to the source's copy of the operating permit.
- (2) The permittee may make changes that are not defined as "Section 502(b)(10) changes" within a permitted facility without a permit revision if the change is not a modification under Title 129, Chapters 18, 23, 27, or 28; and the change is not a change which would require a construction permit under Chapters 17 or 19 (Title 129, Chapter 15, Section 007.02).
- (a) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition (Title 129, Chapter 15, Section 007.02A).
- (b) The source shall provide contemporaneous written notice to the Director and the Administrator of EPA, except for changes that qualify as insignificant activities under the provisions of Title 129, Chapter 7, Sections 006.03 and 006.04. Such written notice shall include (Title 129, Chapter 15, Section 007.02B):
  - (i) A description of each change;
  - (ii) The date the change will be made;
  - (iii) A description of any change in emissions;
  - (iv) A list of the pollutants emitted; and,
  - (v) A list of any applicable requirements that would apply as a result of the change, including terms and conditions established in in the relevant operating permit for synthetic minor purposes.
- (c) A copy of the notification in Condition II.(L)(2)(b) shall be attached to the source's copy of the operating permit.
- (d) Any change under Condition II.(L)(2) shall not qualify for a permit shield under Chapter 8, Section 014 (Title 129, Chapter 15, Section 007.02C).
- (e) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and emissions resulting from those changes (Title 129, Chapter 15, Section 007.02D).
- (f) Upon review of a notice submitted in accordance with Condition II.(L)(2)(b), the NDEQ may require a source to apply for an operating permit if the change does not meet the requirements of Condition II.(L)(2) [Title 129, Chapter 15, Section 007.02E].
- (3) Testing requirements:
  - (a) Testing may be required if a change reported under Condition II.(L)(1) or II.(L)(2) involves an emissions unit that was previously tested (Title 129, Chapter 8, Section 004.01B and 015; Chapter 34).

***Use the appropriate Condition (M)***

- (M) A permit shield is not granted (Title 129, Chapter 8, Section 014).

**OR**

- (M) A permit shield is granted (Title 129, Chapter 8, Section 014).
  - (1) During the term of this permit compliance with ~~the Specific Conditions, identified in Conditions I.(H), (I) and (N), and Conditions II.(A) and (N), and Condition III~~ constitutes compliance with the underlying applicable requirements. The origin and/or authority for each applicable requirement are identified in the condition.
  - (2) The permit shield does not affect:
    - (a) The emergency provisions of Neb. Rev. Stat. §81-1507 of the Nebraska Environmental Protection Act;
    - (b) The USEPA’s authority under the provisions of Section 303, Emergency Powers, of the Clean Air Act;
    - (c) Liability for any violation of applicable requirements or applicable requirements under the Federal Clean Air Act prior to or at the time of permit issuance;
    - (d) The applicable requirements of Chapter 26;
    - (e) The authority of the NDEQ or USEPA to obtain information; or
    - (f) Any other permit provisions, terms, or conditions, including, but not limited to, construction permits issued pursuant to Chapter 17 or permits issued pursuant to other State authorities and Titles.

Commented [DC3]: Only when testing is required in the permit.

**Use the appropriate Condition (3)**

- (3) The NDEQ has determined the requirements specifically identified in the following table are not applicable to this source. Therefore a permit shield is granted as allowed under Title 129, Chapter 8, Section 014.02B:

Requirement	Shield Request Basis and Determination
Summary of the requirement and the emissions unit(s) covered.	

**OR**

- (3) The source did not request to be shielded from requirements that appear to apply to an emissions unit, but do not, in their application.
- (4) The permit shield shall not apply to any temporary RICE or turbine replacement.
- (N) The source shall comply with the requirements of 40 CFR Part 68, Chemical Accident Prevention Provisions, Risk Management Plan (RMP). Where applicable, As as part of the compliance certification submitted under Condition II.~~(B)~~(5), the permittee shall submit a certification statement that the source is in compliance with all requirements of Part 68, including the registration and submission of the RMP (40 CFR 68.215(a); Title 129, Chapter 8, Section 011).

Commented [DC4]: Use this language only when alternative operating scenario language has been incorporated into the permit. (example: Compressor Station)