

II. GENERAL OPERATING PERMIT CONDITIONS

Terms and conditions of this permit are in accordance with the requirements of Title 129, Chapter 8, Sections 001 and 015. 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 the 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, Sections 012.01 and 015).

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 twelve (12) calendar months to the NDEQ. The report shall be submitted by March 31 of the following year (Title 129, Chapter 8, Sections 004.03A and 015).
- (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 004.03, 004.04, 015 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)(3) 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).
- (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) 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 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, Sections 012.05 and 015.03).

- (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.
- (5) 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) 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, Sections 002.06 and 003.04).~~
- (C) 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, Sections 007.01 and 015).
- (D) 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, Sections 007.02 and 015).
- (E) 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, Sections 007.03 and 015).
- (F) 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, Sections 010 and 015):
- (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.
- (G) This permit does not convey any property rights of any sort, or any exclusive privilege (Title 129, Chapter 8, Sections 007.04 and 015).
- (H) 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, Sections 007.05 and 015).
- (I) 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 and 015).
- (J) 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).
- (K) Changes allowed without an operating permit revision (Title 129, Chapter 15, Section 007):
- (1) The permittee may make the changes identified in Condition II.(K)(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 (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 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 007.01A):
 - 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,
 - 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.(K)(2)(b) shall be attached to the source's copy of the operating permit.
 - (d) 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).
 - (e) Upon review of a notice submitted in accordance with Condition II.(K)(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.(K)(2) (Title 129, Chapter 15, Section 007.02E).

- (3) Testing requirements:
 - (a) Testing may be required if a change reported under Condition II.(K)(1) or II.(K)(2) involves an emissions unit that was previously tested (Title 129, Chapter 8, Sections 004.01B and 015; Chapter 34).
- (L) 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.(A)(~~54~~), 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).