

74:09:01:20. Board member conflict of interest. A board member who is personally related to a party involved in a contested case hearing by two degrees of consanguinity, who has a direct financial interest in a party involved in a contested case hearing through employment or by contract, or whose spouse is employed by or directly contracts with a party involved in a contested case hearing, may not participate in a contested case proceeding concerning that party. The member shall make an oral statement of recusal on the record at the initiation of the hearing in the contested case. A recused member may not participate in board discussions or decision-making regarding that contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-2-27, 34A010121, 34A—43, 34A-1-44, 341-1-45, 34A-1-46.

7:09:01:21. Board member potential conflict of interests. A potential conflict of interest is an indirect financial interest, or a personal relationship or another interest in a party involved in a contested case hearing or enforcement hearing that is different from that of the general public, that a reasonable person would believe might result in bias or prejudice of a contested case hearing. Board members shall disclose any potential conflict of interest in a contested case proceeding on the record at the initiation of the hearing, or during the hearing if they become aware of the existence of a potential conflict of interest. Upon its own motion or the motion of a party, the board may recuse a member with a potential conflict of interest if it determines that the potential conflict of interest raises an unacceptable risk of bias or prejudice in the contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-43, 34A-1-44, 34A-1-45, 34A-1-46.

CHAPTER 74:36:01

DEFINITIONS

Section

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74:36:01:01. Definitions. As used in this article:

- (1) "Act" means chapter 34A-1 of the South Dakota Codified Laws;
 - (2) "Acid rain permit" means a legally binding written document or portion of a document that is issued by the department and specifies the acid rain program requirements applicable to an affected source and to the owners and operators and the designated representative of the affected source;
 - (3) "Acid rain program" means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with Title IV of the Clean Air Act;
 - (4) "Administrator" means the administrator of the Environmental Protection Agency or the secretary or their authorized representatives;
 - (5) "Affected source" means a source that includes one or more affected units under Title IV of the Clean Air Act;
 - (6) "Affected unit" means a unit that is subject to any of the emission reduction requirements or emission limits pursuant to Title IV of the Clean Air Act or chapter 74:36:16;
 - (7) "Air pollutant" means one or a combination of the regulated air pollutants listed in § 74:36:01:15;
 - (8) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of a source unless the source is subject to federally enforceable limits which restrict operating rate, hours of operation, or both, and the most stringent of:
 - (a) The applicable new source performance standards in chapter 74:36:07;
 - (b) The applicable national emission standards in chapter 74:36:08;
 - (c) Any applicable emission limitations specified in this article, including those with a future compliance date;
 - (d) The emission rate specified as a permit condition; or
 - (e) The applicable standards in 40 C.F.R. Part 60, 61, or 63 (July 1, 2018);
 - (9) "Ambient air" means that portion of the atmosphere external to buildings to which the general public has access;
 - (10) "ASTM" means the American Society for Testing and Materials;
- 2Revised through Friday, November 25, 2019

- (11) "Board" means the Board of Minerals and Environment;
- (12) "Btu" means British thermal unit;
- (13) "CO" means carbon monoxide;
- (14) "Chairman" means chairman of the board;
- (15) "Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401 et seq., as amended through January 1, 2010;
- (16) "Clean Air Act Amendments" means the amendments to the Clean Air Act enacted in Pub. L. No. 101-549, November 15, 1990;
- (17) "Control equipment" means a device which prevents or reduces emissions;
- (18) "Criteria pollutant" means selected and specified pollutants for which limiting ambient air quality standards have been set, including sulfur dioxides, particulate matter, carbon monoxide, ozone, nitrogen oxides, and lead;
- (19) "Department" means the South Dakota Department of Agriculture and Natural Resources;
- (20) "Designated representative" means the responsible person or official authorized by the owner or operator of an affected unit, in accordance with the Clean Air Act, to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to the unit and the submission of and compliance with permits, permit applications, and compliance plans for the unit;
- (21) "Draft permit" means the version of a permit for which the department offers public participation or affected state review;
- (22) "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit, including work practice standards, or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject;
- (23) "Emission standard" means the maximum amount of a pollutant legally permitted to be discharged from a single unit;
- (24) "Emission unit" or "Unit" means any part or activity of a stationary source which emits or has the potential to emit a regulated air pollutant or any pollutant listed under section 112(b) of the Clean Air Act;
- (25) "EPA" means the Environmental Protection Agency;

(26) "Equivalent method" means any method of sampling and analysis for an air pollutant which has a consistent and quantitatively known relationship to the reference method under specified conditions;

(27) "Existing source" means a source that has an approved state-issued permit;

(28) "Facility" means a building, structure, or installation of pollutant-emitting activities which belong to the same industrial grouping, located on one or more contiguous or adjacent properties and under the control of the same person or of persons under common control, except the activities of a water-borne vessel. Pollutant-emitting activities are part of the same industrial grouping if they belong to the same major group, i.e., have the same two-digit code, as described in the Standard Industrial Classification Manual, 1987;

(29) "Federally enforceable" means all limits and conditions that are enforceable by the administrator of EPA pursuant to federal law. These limits and conditions include those requirements developed pursuant to this article, those appearing in 40 C.F.R. §§ 60 and 61 (July 1, 2018), requirements within the state implementation plan, and permit requirements established pursuant to this article or 40 C.F.R. § 51 Subpart I (July 1, 2018). The use of this term does not impede the department's authority under state law to enforce these limits and conditions;

(30) "Final permit" means the version of an operating permit issued by the permitting authority for a source that has completed all required review procedures;

(31) "Fuel-burning unit" means a furnace, boiler, apparatus, stack, or any of their components used in the process of burning fuel or other combustible material for the primary purposes of producing heat or power by indirect heat transfer;

(32) "Fugitive emissions" means those air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening;

(33) "General permit" means a permit issued by the board in accordance with SDCL 34A-1-56 that may be made applicable to numerous similar sources;

(34) "Heat input" means the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks, using the heat input value of the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater;

(35) "Incinerator" means a furnace used to burn solid waste to reduce the volume of the waste by removing its combustible material;

(36) "Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner, but not a failure caused entirely or in part by poor maintenance, careless operation, preventable equipment breakdown, or any other cause within the control of the owner or operator of the source;

(37) "Minor source" means a source whose potential emissions of a criteria pollutant are less than 100 tons a year and which does not meet the definition of a Part 70 source;

(38) "New source" means a source that has not been constructed and does not possess a permit;

(39) "Nonattainment area" means an area that does not meet or that contributes to ambient air quality in a nearby area that does not meet the national primary or secondary ambient air quality standard for the pollutant;

(40) "NSR" means new source review;

(41) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background;

(42) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passage through a stack, duct, or chimney;

(43) "Operating permit" means a written authorization issued by the board or the secretary for the operation of a source;

(44) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a source;

(45) "Part 70 operating permit" means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised;

(46) "Part 70 source" means any source subject to § 74:36:05:03;

(47) "Particulate matter" means a broad class of chemically and physically diverse substances that exist as discrete particles, liquid droplets, or solids over a wide range of sizes;

(48) "Permit modification" means a change to a source which operates under a minor source operating permit or Part 70 operating permit that meets the requirements of § 74:36:01:10;

(49) "Permit revision" means a revision to a minor source operating permit or Part 70 operating permit to incorporate a permit modification, administrative permit amendment, insignificant increase in allowable emissions, or minor permit amendment;

(50) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or state agency or any legal successor, representative, agent, or agency of the foregoing;

(51) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by an applicable reference or equivalent method;

(52) "Proposed Part 70 operating permit" means a permit that the department has forwarded to EPA for review after the closure of the public notice period and after considering any public comments, including those from affected states;

(53) "PSD" means prevention of significant deterioration;

(54) "Salvage operation" means an operation conducted in whole or in part for the reclaiming of product or material;

(55) "Secretary" means the secretary of the South Dakota Department of Agriculture and Natural Resources or an authorized representative;

(56) "Shutdown" means the cessation of operation of any control equipment, process equipment, or process for any purposes;

(57) "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material, that form a visible plume in the air;

(58) "Source" means a facility that emits or may emit any air pollutant regulated under the Clean Air Act;

(59) "Start-up" means the setting into operation of any control equipment, process equipment, or process for any purpose;

(60) "Title I" means Title I of the Clean Air Act Amendments, provisions for attainment and maintenance of national ambient air quality standards;

(61) "Title IV" means Title IV of the Clean Air Act Amendments, acid deposition control;

(62) "Title V" means Title V of the Clean Air Act Amendments, permits;

(63) "Title VI" means Title VI of the Clean Air Act Amendments, stratospheric ozone protection;

(64) "VOC" or "volatile organic compounds" means the same as defined in 40 C.F.R. § 51.100(s) (July 1, 2018);

(65) "Wire reclamation furnace" means a furnace that uses either direct or indirect heat transfer to salvage nonferrous metals through the thermal destruction of solid waste materials;

(66) "PM_{2.5}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an applicable reference or equivalent method;

(67) "SO₂" means sulfur dioxide;

(68) "NO₂" means nitrogen dioxide;

(69) "Construction permit" means a written authorization issued by the board or the secretary for the construction and operation of a new source or modification to an existing source; and

(70) "Subject to regulation" means for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in 40 C.F.R. Part 50 (July 1, 2018), that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity;

(71) Closed landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid waste will be placed without first filing a notification of modification; and

(72) Closed landfill subcategory" means a closed landfill that has submitted a closure report for an existing municipal solid waste landfill as specified in § 74:36:07:142 on or before September 27, 2017.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:01, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 37 SDR 182, effective April 20, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

Reference: Standard Industrial Classification Manual, 1987, Executive Office of the President, Office of Management and Budget. Copies may be obtained from National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, order no. PB 87-100012. Cost: \$31.

74:36:01:02. Actual emissions defined. Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:01, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 31 SDR 101, effective January 2, 2005.

74:36:01:03. Administrative permit amendment defined. An administrative permit amendment is an amendment to an existing permit and is issued by the secretary. The secretary may issue an administrative permit amendment if it accomplishes one of the following:

- (1) Corrects typographical errors;
- (2) Changes the name, address, or phone number of any person identified in the 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 a source if the department determines that no other change in the permit is necessary and 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. If the change in ownership or operational control changes the designated representative for an acid rain permit, the change is considered a permit modification and the procedures outlined in § 74:36:05:39 apply; or

(5) Any other change that the Administrator of the EPA and the secretary determines to be similar to the requirements in subdivisions (1) to (4), inclusive, of this section.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:04. Affected states defined. Affected states are all states whose air quality may be affected by and that are contiguous to the state in which an operating permit, permit modification, or permit renewal for a Part 70 source is being proposed or that are within 50 miles of the permitted source.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:05. Applicable requirements of the Clean Air Act defined. Applicable requirements of the Clean Air Act include all of the following as they apply to emissions units in a Part 70 source, unless the context of the Clean Air Act requires otherwise:

- (1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Clean Air Act that implements the relevant requirements of the Clean Air Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52 (July 1, 2018);
- (2) Any term or condition of any preconstruction permits issued pursuant to regulations approved through rulemaking under Title I, including Parts C or D, of the Clean Air Act;
- (3) Any standard or other requirement under § 111 of the Clean Air Act, including § 111(d);
- (4) Any standard or other requirement under § 112 of the Clean Air Act, including any requirement concerning accident prevention under § 112(r)(7) of the Clean Air Act;
- (5) Any standard or other requirement of the acid rain program under Title IV of the Clean Air Act or the regulations promulgated under it;
- (6) Any monitoring, reporting, and certification requirements established pursuant to § 504(b) or 114(a)(3) of the Clean Air Act;
- (7) Any standard or other requirement governing solid waste incineration, under § 129 of the Clean Air Act;
- (8) Any standard or other requirement for consumer and commercial products, under § 183(e) of the Clean Air Act;
- (9) Any standard or other requirement for tank vessels, under § 183(f) of the Clean Air Act;
- (10) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under § 328 of the Clean Air Act;

(11) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Clean Air Act, unless the administrator of the EPA has determined that such requirements need not be contained in a Part 70 operating permit; and

(12) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Clean Air Act, but only as it would apply to temporary sources permitted pursuant to § 504(e) of the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:06. Complete application defined. A complete application is one that the department has determined to contain all the information needed to begin to process the application. A determination that an application is complete continues in effect if the source submits by the date or dates specified by the department any additional information reasonably determined by the department to be necessary for developing and issuing the permit and requested in writing.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:07. Major modification defined. Repealed.

Source: 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:02.01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; repealed, 31 SDR 101, effective January 2, 2005.

74:36:01:08. Major source defined. A major source is any source or any group of sources that is located on one or more contiguous or adjacent properties, that is under control of the same person or of persons under common control, that belongs to a single major industrial grouping, and that is any of the following:

(1) A major source under § 112 of the Clean Air Act defined as a source or group of sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to § 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or a lesser quantity established by rule by the administrator of the EPA. Emissions from any oil exploration or production well and its associated equipment and emissions from any pipeline compressor or pump station may not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(2) A major source of air pollutants, as defined in § 302 of the Clean Air Act, that directly emits or has the potential to emit 100 tpy or more of any air pollutant subject to regulation as required by EPA, including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator of the EPA; or

(3) A major source as defined in Part D of Title I of the Clean Air Act, including;

(a) For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons or more per year in areas classified as "serious," 25 tons or more per year in areas classified as "severe," and 10 tons or more per year in areas classified as "extreme." The references in this subdivision to 100, 50, 25, and 10 tons per year of nitrogen oxides do not apply to any source for which the administrator of the EPA has made a finding, under § 182(f)(1) or (2) of the Clean Air Act, that the requirements of § 182(f) of the Clean Air Act do not apply;

(b) For ozone transport regions established pursuant to § 184 of the Clean Air Act, sources with the potential to emit 50 tons or more per year of volatile organic compounds;

(c) For carbon monoxide nonattainment areas that are classified as "serious" and in which sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator of the EPA, sources with the potential to emit 50 tons or more per year of carbon monoxide; and

(d) For particulate matter (PM10) nonattainment areas classified as "serious," sources with the potential to emit 70 tons or more per year of PM10.

A source or group of sources is considered as part of a single industrial grouping if all of the pollutant-emitting activities of the source or group of sources belong to the same major group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

Source: List of stationary sources transferred from § 74:26:01:03, 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:01:06.05 and 74:26:01:06.07, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 37 SDR 182, effective April 20, 2011.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

Cross-Reference: Classification defined, Title I of the Clean Air Act.

Reference: Standard Industrial Classification Manual, 1987, Executive Office of the President, Office of Management and Budget. Copies may be obtained from National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, order no. PB 87-100012. Cost: \$31.

74:36:01:09. Categories of sources defined. The fugitive emissions of a source shall not be included in determining whether it is a major source for any of the purposes of § 74:36:01:08 unless the source belongs to one of the following categories of sources:

(1) Coal cleaning plants with thermal dryers;

- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plants;
- (18) Sintering plants;
- (19) Secondary metal production plants;
- (20) Chemical process plants;
- (21) Fossil fuel-fired boilers totaling more than 250 million British thermal units per hour heat input;
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) Taconite ore processing plants;
- (24) Glass fiber processing plants;
- (25) Charcoal production plants;
- (26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (27) Any other source category, which as of August 7, 1980, is regulated under § 111 or 112 of the Clean Air Act but only for those air pollutants that have been regulated for that category.

Source: Transferred from § 74:26:01:03, 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:06.07, 19 SDR 157, effective April 22, 1993; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:10. Modification defined. Modification is a physical change in or change in the method of operation of a source that results in at least one of the following:

- (1) An increase in the amount of an air pollutant emitted by that source or in the emission of an air pollutant not previously emitted, except for an insignificant increase in allowable emissions as specified in § 74:36:01:10.01;
- (2) A significant change to existing monitoring, reporting, or record keeping requirements in the permit;
- (3) The change requires or changes a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis; or

(4) The change seeks to establish or change a permit term or condition for which there is a corresponding underlying applicable requirement that the source has assumed to avoid an applicable requirement, a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I, or an alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Clean Air Act.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:01(18), 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:02, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:10.01. Insignificant increase in allowable emissions. An insignificant increase in allowable emissions is a physical change or change in the method of operation that results in air emissions less than the following amounts and the change does not trigger § 74:36:01:10(3) and (4):

- (1) 10 tons per year of particulate matter;
- (2) 5 tons per year of PM10;
- (3) 3 tons per year of PM2.5;
- (4) 10 tons per year of sulfur dioxide;
- (5) 10 tons per year of nitrogen oxides;
- (6) 10 tons per year of carbon monoxide;
- (7) 5 tons per year of volatile organic compounds;
- (8) 0.1 tons per year of lead;
- (9) 1 ton per year of fluorides;
- (10) 2 tons per year of sulfuric acid mist;
- (11) 2 tons per year of hydrogen sulfide;
- (12) 2 tons per year of total reduced sulfur;
- (13) 2 tons per year reduced sulfur compounds;
- (14) 2 tons per year of municipal waste combustor emissions; and

(15) 10 tons per year of municipal solid waste landfill emissions (measured as nonmethane organic compounds).

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:01:11. National ambient air quality standard (NAAQS). The national primary ambient air quality standards define levels of air quality that are necessary, with a margin of safety, to protect the public health. The national secondary ambient air quality standards define levels of air quality that are necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. These standards are located in chapter 74:36:02.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:01, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:01, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:12. Potential to emit defined. The potential to emit for sources shall be based on the maximum rated capacity of a source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of a source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable. Secondary emissions are not included when determining the potential to emit.

Source: 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:03, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; list of stationary sources transferred to § 74:26:01:06.07, 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:03, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:13. Process weight rate defined. Process weight per hour is the total weight of all raw materials and other materials introduced into any specific process that may cause an emission of a regulated pollutant. Solid fuels charged are considered as part of the process weight, but liquid and gaseous fuels and combustion air are not.

The process weight rate for continuous or long-run steady-state operations is the total process weight for the entire period of continuous operation or for a typical portion divided by the number of hours of the period or portion.

The process weight rate for cyclical or batch operation is the total process weight for a period that covers a complete operation or an integral number of cycles divided by the hours of actual process operation during such a period.

If the nature of a process or operation or the design of equipment permits more than one interpretation of data, the interpretation that results in the minimum value for allowable emissions applies.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:01(29), 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:04, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:04, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:14. Reconstruction of sources defined. Repealed

Source: 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:05, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:05, 19 SDR 157, effective April 22, 1993; repealed, 31 SDR 101, effective January 2, 2005.

74:36:01:15. Regulated air pollutant defined. A regulated air pollutant is one of the following:

- (1) Nitrogen oxides or any volatile organic compounds;
- (2) Nitrogen dioxide, PM₁₀, sulfur dioxide, carbon monoxide, lead, ozone, or any pollutant for which a national ambient air quality standard has been promulgated in the Clean Air Act;
- (3) Any pollutant that is addressed by any standard promulgated under § 111 of the Clean Air Act;
- (4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act;
- (5) Any pollutant subject to a standard promulgated under § 112 of the Clean Air Act or other requirements established under §§ 112(g), (j), and (r) of the Clean Air Act, including the following:
 - (a) Any pollutant subject to a standard promulgated under § 112(j) of the Clean Air Act. If the administrator of the EPA fails to promulgate a standard by the date established in § 112(e) of the Clean Air Act, any pollutant for which a subject source would be major shall be considered to be regulated on that date; and
 - (b) Any pollutant for which the requirements of § 112(g)(2) of the Clean Air Act have been met, but only for the individual source subject to § 112(g)(2) requirement; or
- (6) Any of the six greenhouse gases designated by EPA as regulated air pollutants: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 37 SDR 182, effective April 20, 2011.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:16. Responsible official defined. A responsible official is defined as one of the following:

(1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit, and either:

(a) The facility employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(b) The delegation of authority to such a representative is approved in advance by the department;

(2) For a partnership or sole proprietorship, a general partner or the proprietor, respectively;

(3) For a municipal, state, federal, or other public agency, either a principal executive officer or ranking elected official. For the purposes of this subdivision, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(4) For affected sources:

(a) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated under it are concerned; or

(b) The designated representative for any other purposes under chapter 74:36:05.

Source: 19 SDR 157, effective April 22, 1993; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:17. Significant defined. Repealed.

Source: 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:06.04, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; repealed, 31 SDR 101, effective January 2, 2005.

74:36:01:18. Municipal solid waste landfill defined. Municipal solid waste landfill means the entire disposal facility in a contiguous geographical space where household waste, commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, or industrial solid waste is placed in or on land. Portions of the municipal solid waste landfill may be separated by access roads. A municipal solid waste landfill may be publicly or privately owned, a new landfill, an existing landfill, or a lateral expansion.

Source: 23 SDR 106, effective December 29, 1996.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6, 34A-1-18.

74:36:01:19. Existing municipal solid waste landfill defined. An existing municipal solid waste landfill is a municipal solid waste landfill that commenced construction, reconstruction, or modification on or before July 17, 2014. An existing municipal solid waste landfill may be active or closed. Physical or operational changes made to an existing municipal solid waste landfill solely to comply with applicable emission limits are not considered a modification or reconstruction.

Source: 23 SDR 106, effective December 29, 1996.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6, 34A-1-18.

74:36:01:20. Physical change in or change in the method of operation defined.

A physical change or change in the method of operation does not include:

(1) Routine maintenance, repair, and replacement;

(2) Use of an alternative fuel or raw material because of an order under §§ 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended and in effect on January 1, 1993, or because of a natural gas curtailment plan pursuant to the Federal Power Act as in effect on January 1, 1993;

(3) Use of an alternative fuel because of an order or rule under § 125 of the Clean Air Act;

(4) Use at a steam generating unit of an alternative fuel that is generated from municipal solid waste;

(5) An increase in the hours of operation or in the production rate, unless the change is prohibited under a federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 C.F.R. § 52.21 (July 1, 2018), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (July 1, 2018);

(6) Any change of ownership at a source;

(7) The use of an alternative fuel or raw material by a source which the source was capable of accommodating before January 6, 1975, unless the change is prohibited under a federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 C.F.R. § 52.21 (July 1, 2018), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (July 1, 2018); or

(8) The use of an alternative fuel or raw material which the source is approved to use under a permit issued under 40 C.F.R. § 52.21 (July 1, 2018) or under regulations approved pursuant to 40 C.F.R. § 51.165 (July 1, 2018).

Source: 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:01:21. Commenced construction defined. Commenced construction means the owner or operator has all necessary construction approvals or permits and has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the new source or modification to the existing source; or

(2) Entered into a binding agreement or contractual obligation, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

CHAPTER 74:36:02

AMBIENT AIR QUALITY

Section

- 74:36:02:01 Air quality goals.
- 74:36:02:02 Ambient air quality standards.
- 74:36:02:03 Methods of sampling and analysis.
- 74:36:02:04 Air quality monitoring network.
- 74:36:02:05 Ambient air monitoring requirements.

74:36:02:01. Air quality goals. The air quality goals are as follows:

- (1) Protection of the public health;
- (2) Prevention of damage to buildings, property, animals, plants, forests, and agricultural crops;
- (3) Optimization of visibility; and
- (4) Minimization of the corrosion of or damage to metals or other materials.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:01, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:02:01, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

74:36:02:02. Ambient air quality standards. The ambient air quality standards listed in 40 C.F.R. §§ 50.1 through 50.3, (July 1, 2018); 40 C.F.R. §§ 50.5 and 50.6 (July 1, 2018); 40 C.F.R. § 50.8 (July 1, 2018); 40 C.F.R. § 50.11 (July 1, 2018); 40 C.F.R. § 50.13 (July 1, 2018); 40 C.F.R. § 50.14 (July 1, 2018); and 40 C.F.R. §§ 50.16 through 50.19 (July 1, 2018), define the types and levels of air pollution above which the ambient air would limit the attainment of the goals specified in § 74:36:02:01. These standards apply to the entire state and no person may cause these standards to be exceeded. The standards include normal background levels of air pollutants.

AIR POLLUTION CONTROL PROGRAM

74:36

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:02, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:02:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

74:36:02:03. Methods of sampling and analysis. Air pollutants of particulate matter, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead listed in 40 C.F.R. Part 50 (July 1, 2018) shall be measured by the reference method or methods stated in 40 C.F.R. Part 50, Appendix A through Appendix U (July 1, 2018) or an equivalent method designated in accordance with 40 C.F.R. Part 53 (July 1, 2018).

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:11, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:09, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:02:09, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

74:36:02:04. Air quality monitoring network. The department shall outline ambient air monitoring goals, changes, and network design in the air quality monitoring network. The department shall revise the air quality monitoring network as required by 40 C.F.R. § 58.20 (July 1, 2018).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

74:36:02:05. Ambient air monitoring requirements. The operation of ambient air monitoring required by the department shall be consistent with 40 C.F.R. Part 58 (July 1, 2018). Records of monitoring activities and results shall be retained for a minimum of three years.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

CHAPTER 74:36:03

AIR QUALITY EPISODES

Section

- 74:36:03:01 Air pollution emergency episode.
74:36:03:02 Episode emergency contingency plan.

74:36:03:01. Air pollution emergency episode. The secretary shall proclaim an air pollution emergency episode and its extent, using the criteria in 40 C.F.R. § 51.151 and Appendix L to Part 51 (July 1, 2018), if the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of the public.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:22, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:17, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:02:17, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

74:36:03:02. Episode emergency contingency plan. The department shall develop an episode emergency contingency plan and maintain the plan following the requirements in 40 C.F.R. § 51.152 (July 1, 2018). The department shall reevaluate the contingency plan in accordance with the requirements in 40 C.F.R. § 51.153 (July 1, 2018).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-15.

CHAPTER 74:36:04
OPERATING PERMITS FOR MINOR SOURCES

Section
74:36:04:01

Applicability.

74:36:04:02	Minor source operating permit required.
74:36:04:02.01	Minor source operating permit exemption.
74:36:04:03	Emission unit exemptions.
74:36:04:03.01	Repealed.
74:36:04:04	Standard for issuance of a minor source operating permit.
74:36:04:05	Time period for operating permits and renewals.
74:36:04:06	Timely and complete application for operating permit required.
74:36:04:07	Required contents of complete application for operating permit.
74:36:04:08	Applicant required to supplement or correct application.
74:36:04:09	Permit application -- Completeness review.
74:36:04:10	Time period for department's recommendation.
74:36:04:11	Repealed.
74:36:04:12	Public participation in permitting process.
74:36:04:12.01	Public review of department's draft permit.
74:36:04:13	Final permit decision -- Notice to interested persons.
74:36:04:14	Right to petition for contested case hearing.
74:36:04:15	Contents of operating permit.
74:36:04:16	Operating permit expiration.
74:36:04:17	Renewal of operating permit.
74:36:04:18	Operating permit revision.
74:36:04:19	Administrative permit amendment.
74:36:04:20	Procedures for administrative permit amendments.
74:36:04:20.01	Minor permit amendment required.
74:36:04:20.02	Requirements for minor permit amendment.
74:36:04:20.03	Application for minor permit amendment.
74:36:04:20.04	Department deadline to approve minor permit amendment.
74:36:04:21	Permit modifications.
74:36:04:21.01	Alternative permit modification procedure.
74:36:04:22	Source status change -- New permit required.
74:36:04:23	Reopening operating permit for cause.
74:36:04:24	Procedures to reopen operating permit.
74:36:04:25	Repealed.
74:36:04:26	Repealed.
74:36:04:27	Operating permit termination, revision, and revocation.
74:36:04:28	Notice of operating noncompliance -- Contents.
74:36:04:29	Petition for contested case on alleged violation.
74:36:04:30	Repealed.
74:36:04:31	Circumvention of emissions not allowed.
74:36:04:32	General permits.
74:36:04:33	Secretary may require an individual permit.

74:36:04:01. Applicability. The requirements of this chapter apply to all minor sources.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:04:02. Minor source operating permit required. A person may not operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment

that prevents or controls the emission of air pollutants into the ambient air until a construction permit or minor source operating permit has been issued by the board or the secretary.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:03.01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:08, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:08, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:02.01. Minor source operating permit exemption. The following sources are exempt from obtaining a minor source operating permit:

(1) A source that has the potential to emit 25 tons or less per year of any criteria pollutant, except lead, before the application of control equipment; and

(2) Any other source constructed for domestic purposes and not intended for use by an industry, manufacturer, or business.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:03. Emission unit exemptions. The following emission units are exempt from inclusion in a minor source operating permit unless the source has requested federally enforceable permit conditions related to the emission unit to avoid needing a Part 70 operating permit, PSD preconstruction permit, or NSR preconstruction permit, or the emission unit is applicable to a standard in chapter 74:36:07 or 74:36:08:

(1) One or more incinerators of less than 100 pounds per hour combined burning capacity that combust municipal or household waste;

(2) A mobile internal combustion engine, including those in autos, trucks, tractors, airplanes, locomotives, and boats;

(3) Laboratory equipment used exclusively for chemical or physical analysis;

(4) A unit that has a heat input capability of not more than 3,500,000 Btus per hour, except for units fueled with wood or coal;

(5) An air conditioning or ventilating system not designed to remove air pollutants from equipment;

(6) Routine housekeeping or plant upkeep activities such as painting buildings, retarring roofs, or paving parking lots; and

(7) A unit that has the potential to emit two tons or less per year of any criteria pollutant before the application of control equipment. However, the criteria pollutant emissions from the unit must be included in determining whether the source is a minor source.

An emission unit that is exempt from permitting must still meet the visible emission restriction in § 74:36:12:01.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:16, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:25, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991;

transferred from § 74:26:01:25, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-19, 34A-1-21.

Cross-References: Operating permits for Part 70 sources, ch 74:36:05; Prevention of significant deterioration, ch 74:36:09.

74:36:04:03.01. Minor source operating permit variance. Repealed.

Source: 23 SDR 106, effective December 29, 1996; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; repealed, SL 2013, ch 166, § 15, effective July 1, 2013.

74:36:04:04. Standard for issuance of a minor source operating permit. The minor source operating permit must include reasonable conditions, including adherence to plans and specifications, to assure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:08.02; transferred from § 44:10:01:12, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:12, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-19, 34A-1-21.

Law Implemented: SDCL 34A-1-19, 34A-1-21.

74:36:04:05. Time period for operating permits and renewals. An operating permit for a minor source shall be issued for a period up to five years and all subsequent operating permits shall be for a period of five years.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:21.04; transferred from § 44:10:01:32, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:32, 19 SDR 157, effective April 22, 1993; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:06. Timely and complete application for operating permit required. A person who owns or operates a source required to have a minor source operating permit shall submit a timely and complete application. An application is timely if it meets the time limits specified in this section. An application is complete if it meets the requirements in § 74:36:04:07.

A minor source applying for an initial operating permit shall submit a complete application to the department within 12 months after commencing operation. A minor source applying for a

permit modification shall submit a complete application to the department within 12 months after commencing operation of the emission unit(s) involved with the modification.

A minor source applying for renewal of an operating permit shall submit a complete application 90 days before the date of permit expiration. If an existing source submits a timely and complete application for renewal of an operating permit within this time limit, the source's existing permit does not expire until the renewal permit has been issued or denied. The terms and conditions of the existing permit remain in effect until the renewal permit has been issued or denied.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-12, 34A-1-21.

Note: A minor source applying for an initial operating permit or a permit modification must obtain a construction permit in accordance with chapter 74:36:20 before commencing construction of the source or permit modification.

74:36:04:07. Required contents of complete application for operating permit. An application for an operating permit for a minor source or permit modification must include the following information to be considered a complete application:

(1) General company information, including the company name and address or the plant name and address if different from the company name, the owner's name and agent, and the plant site manager or contact;

(2) A description of the plant and its processes and products;

(3) The following information on emissions:

(a) Identification and description of all emission units;

(b) Fuels, fuel use, raw materials, and production rates;

(c) Identification and description of air pollution control equipment;

(d) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants;

(e) Other information required by any applicable requirements, including information related to stack height limits, such as the location of emissions units, flow rates, building dimensions, and stack parameters, including height, diameter, and plume temperature, for all pollutants regulated at the source;

(4) A copy of any prepared plans and the specifications of any equipment or other facilities which may affect the source, including pollution control devices;

(5) An abatement strategies plan, if required by chapter 74:36:03;

(6) A signed and notarized certification of applicant form;

(7) The results of any air dispersion modeling required by the department;

(8) The results of any stack performance testing required by the department;

(9) Any other information requested by the department which is relevant to determining compliance with the act or the Clean Air Act.

The application must be signed by the responsible official or designated representative. An application for the renewal of an operating permit may refer to a previously submitted application if there are no operational changes.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:04.01, 34:10:01:06, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:09, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:09, 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-12, 34A-1-21.

74:36:04:08. Applicant required to supplement or correct application. If the applicant is aware that the application is incomplete or that any relevant facts or information contained in an application are incorrect, the applicant shall submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable after the application is filed but prior to the release of the draft permit.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-12, 34A-1-21.

74:36:04:09. Permit application -- Completeness review. The department shall conduct a completeness review of each permit application received, as follows:

(1) Within 30 days after submission of an application for an initial operating permit, a permit modification, or a renewal of an operating permit for a minor source, the department shall notify the applicant in writing whether or not the application is complete or incomplete. If the department does not notify the applicant that the application is incomplete within 30 days after receipt of the application, the application is considered complete. The department may at any time during the processing of the application request, in writing, additional information necessary to evaluate or take final action on the application;

(2) If the application is incomplete or additional information is necessary to evaluate the application, the department shall identify the items required to complete the application. The applicant has 20 working days after receipt of an incomplete notification or request for additional information to submit the information, unless an extension beyond the 20 working days is approved by the department; and

(3) The department shall determine the adequacy of the applicant's response to each incomplete item within 15 days after receipt of the response and shall notify the applicant in writing if the application is or is not complete.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:10. Time period for department's recommendation. The department shall recommend issuance or denial of an operating permit, a permit modification, or a renewal for an operating permit for a minor source within 90 days after the submission of a complete application and all other additional information necessary for the department to make an informed decision. A recommendation to issue a permit shall include a draft permit with appropriate conditions to ensure compliance with the act and Clean Air Act. Failure of the department to act on an application entitles the applicant to petition for and obtain a contested case review of the application without waiting for a department recommendation. The petition must conform to the requirements of article 74:09.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:08.01, 34:10:01:11, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:11, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:11, 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:11. Department's recommendation on operating permit. Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:02, 34:10:01:22.02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:36, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:36, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; repealed, 36 SDR 207, effective June 28, 2010.

74:36:04:12. Public participation in permitting process. The department shall mail a copy of the draft permit for a minor source to the applicant. The department shall publish a public notice of the draft permit once in a legal newspaper in the county where the source is located. The notice must include a brief statement describing the source and where it is located; the department's recommendation and the reasons for it; the activity or activities involved in the permit action; the emissions change involved in any permit modification; a statement that a person may submit comments or contest the draft permit within 30 days after the publication of the notice; describe the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09; and a statement describing where copies of the draft permit or other information may be obtained. The department shall provide to the interested parties a 30-day notice of any hearing to contest a draft permit.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:02, 34:10:01:22.03, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:37, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:37, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 34A-1-21.

74:36:04:12.01. Public review of department's draft permit. During the public comment period, any interested person may submit written comments on the draft permit or request a contested case hearing. All comments will be considered in making a final permit decision on the draft permit as provided in § 74:36:04:13. A request for a contested case hearing must be in

writing and prepared and filed in accordance with article 74:09. The department is not required to accept recommendations or comments that are not based on applicable requirements of this article or the requirements of the Clean Air Act.

Source: 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21

74:36:04:13. Final permit decision -- Notice to interested persons. The department shall make its final permit decision within 30 days of the end of the public comment period on a draft permit. The department shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final permit decision. The notice shall include reference to the procedures for contesting the final permit decision and requesting a hearing in accordance with article 74:09. For the purpose of this section, the final permit decision means proposing a permit, denying a permit, or terminating a permit.

The final permit will be issued within 30 days of notifying the applicant and each person that submitted written comments or requested notification of the final permit decision except under the following conditions:

- (1) A later effective date is specified in the final permit decision;
- (2) A contested case hearing is requested; or
- (3) No comments or request for changes in the draft permit were received during the public notice period on the draft permit. In this case, the draft permit automatically becomes the final permit decision and the final permit is issued at the end of the public notice period.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:02, 34:10:01:22.04, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:38, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:38, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21.

74:36:04:14. Right to petition for contested case hearing. The applicant or interested person may petition the board and obtain a contested case hearing to dispute the department's draft permit. Any other person may petition to intervene and request a hearing if the person has an interest affected by the department's draft permit. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after publication of the notice required by § 74:36:04:12.

The applicant or an interested person that comments on the draft permit may petition the board for and obtain a contested case hearing to dispute the department's final permit decision. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after receiving the department's final permit decision.

If the draft permit or the final permit decision is contested, the department shall present the draft permit or final permit decision to the board for action in accordance with article 74:09.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:02, 34:10:01:22.05, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:39, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; transferred from § 74:26:01:39, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21.

74:36:04:15. Contents of operating permit. An operating permit for a minor source shall include the following:

- (1) The signature of either the secretary or the chairman;
- (2) The name of the person, company, political subdivision, agency, or institution granted a permit;
- (3) The type of operation;
- (4) The facility and mailing address;
- (5) The date the operating permit was granted and on which it will expire;
- (6) A number for administrative reference;
- (7) The name of a designated person or officer responsible for the source's operation;
- (8) A statement granting an operating permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the act and the Clean Air Act;
- (9) Emission limits and standards, including operational requirements and limits for all regulated emission units, necessary to assure compliance with applicable requirements of the act and the Clean Air Act;
- (10) Monitoring and related record keeping and reporting requirements;
- (11) A severability clause to ensure the continued validity of the various permit requirements if any portions of the permit are challenged; and
- (12) Provisions stating the following:
 - (a) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action, permit termination, revocation and reissuance, permit revision, or denial of a permit renewal application;
 - (b) The operating permit may be revised, revoked and reissued, reopened, or terminated for cause;
 - (c) The operating permit does not convey any property rights of any sort or any exclusive privilege; and
 - (d) The permittee shall provide any information, including records, requested in writing by the department to determine whether cause exists for revising, revoking and reissuing, reopening, or terminating the permit or to determine compliance.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:22.10, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:44, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:44, 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:16. Operating permit expiration. Operating permit expiration terminates the source's right to operate under the minor source operating permit unless a timely and complete renewal application has been submitted to the department.

Source: 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:17. Renewal of operating permit. Permits being renewed are subject to the same procedural requirements in §§ 74:36:04:06 to 74:36:04:14, inclusive, as the original minor source operating permit issuance.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:18. Operating permit revision. An operating permit for a minor source may be revised at any time by the submittal of an application. The application must specify whether the requested revision is an administrative permit amendment, minor permit amendment, or a permit modification with supporting documentation. The application must contain the necessary information required for an administrative permit amendment, minor permit amendment, or permit modification.

Source: 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:19. Administrative permit amendment. An administrative permit amendment may be issued for a revision to an operating permit meeting the requirements of § 74:36:01:03. An application for an administrative permit amendment shall contain a description of the change and documentation supporting the applicant's claim the revision qualifies as an administrative permit amendment.

Source: 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:20. Procedures for administrative permit amendments. The source may implement a proposed revision that is considered an administrative permit amendment immediately upon notifying the department. The department shall determine whether an administrative permit amendment is applicable to the proposed revision within 15 days of receiving a request for a permit revision. The department shall issue administrative permit amendments without the procedural requirements applicable to obtaining a permit modification.

Source: 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:20.01. Minor permit amendment required. A minor permit amendment is an amendment to an existing minor source operating permit and is issued by the secretary. A source may request a minor permit amendment under §§ 74:36:04:20.02 to 74:36:04:20.04, inclusive, for a change that does not constitute a modification and is not prohibited under any applicable requirement under Title I of the Clean Air Act.

Source: 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-12, 34A-1-21.

74:36:04:20.02. Requirements for minor permit amendment. A minor permit amendment may be issued by the secretary if the proposed revision meets the following requirements:

- (1) It does not violate any applicable requirement;
- (2) It does not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;
- (3) It does not require or change a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (4) It does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement that the source has assumed to avoid an applicable requirement, a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I, or an alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Clean Air Act; and
- (5) It does not constitute a modification under Title I of the Clean Air Act.

Source: 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:20.03. Application for minor permit amendment. An application for a minor permit amendment shall include the following:

- (1) A description of the proposed change, the resulting change in emissions, and any new applicable requirements;
- (2) The source's suggested draft permit; and
- (3) Certification by a responsible official that the proposed revision meets the applicable requirements of a minor permit amendment.

Source: 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:20.04. Department deadline to approve minor permit amendment. The department shall take the following final action on a proposed minor permit amendment within 90 days after receipt of a complete application for the amendment:

- (1) Issue the minor permit amendment as proposed;
- (2) Deny the minor permit amendment application; or
- (3) Determine that the requested minor permit amendment should be processed as a permit modification.

The source may implement a proposed revision that is considered a minor permit amendment seven days after submitting a complete application. The secretary shall issue minor permit amendments without the procedural requirements applicable to obtaining a permit modification.

Source: 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:21. Permit modifications. Permit modifications are subject to the same procedural requirements in §§ 74:36:04:06 to 74:36:04:14, inclusive, as the original operating permit issuance as long as the source remains a minor source. However, the required review shall cover only the proposed changes rather than the unchanged activities of the permittee.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:21.01. Procedures for an insignificant increase in allowable emissions. The department shall take the following final action on the proposed insignificant increase in allowable emissions within 90 days after receipt of a complete application for the permit revision:

- (1) Issue the permit revision as proposed;
- (2) Deny the application for a permit revision; or
- (3) Determine the requested permit revision should be processed as a permit modification.

The secretary shall issue the permit revision for an insignificant increase in allowable emissions without the procedural requirements applicable to obtaining a permit modification.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:22. Source status change -- New permit required. If a minor source becomes a Part 70 source because of a relaxation in a federally enforceable limit on the capacity of the source or modification as defined in § 74:36:01:10, the requirements of chapter 74:36:05 apply to that source as though it were a single new source and the owner or operator shall obtain the applicable permit.

Source: 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:02.02, 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:04:23. Reopening operating permit for cause. The department may reopen an operating permit for further review if the department determines that the permit contains a material mistake in establishing the emissions standards or limits or other requirements of the operating permit or the department determines that the operating permit must be revised to ensure compliance with the applicable requirements of this article and the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:24. Procedures to reopen operating permit. The department shall notify the source at least 30 days before reopening an operating permit issued to the source. The department may reopen a permit in a shorter time in an emergency. The procedures to reopen an operating permit shall follow the procedural requirements to issue an initial permit and shall affect only those parts of the permit for which cause to reopen exists.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:25. General permit. Repealed.

Source: 19 SDR 157, effective April 22, 1993; repealed, 23 SDR 106, effective December 29, 1996.

74:36:04:26. General permit -- Notice of intent. Repealed.

Source: 19 SDR 157, effective April 22, 1993; repealed, 23 SDR 106, effective December 29, 1996.

74:36:04:27. Operating permit termination, revision, and revocation. The board, upon recommendation by the secretary, may terminate, revise, or revoke an operating permit for a violation of this article or nonpayment of any outstanding enforcement penalty.

Source: 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:04:28. Notice of operating noncompliance -- Contents. If the department determines that the operation of a source is not in compliance with this article, the Clean Air Act, or permit conditions, the department may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based. The secretary, with the concurrence of the alleged violator, may settle an issue of noncompliance by entering into a

compliance agreement with the source that specifies the date for final compliance of the source and any penalties under SDCL 34A-1-39. If a compliance agreement can not be negotiated, the department may petition the chairman of the board for a contested case hearing or may file a civil penalty or injunctive action in circuit court.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:39, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:47, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:47, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 1-26-20, 34A-1-53.

74:36:04:29. Petition for contested case on alleged violation. In accordance with § 74:36:04:28, the department may file a petition containing the information required in article 74:09 with the chairman to request an order directing corrective action, that an enforcement hearing be scheduled pursuant to the provisions of chapter 74:09:01, or that the permit be suspended or revoked for noncompliance.

Source: 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:40, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:48, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; transferred from § 74:26:01:48, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-47, 34A-1-49.

74:36:04:30. Stack performance tests required. Repealed.

Source: 19 SDR 157, effective April 22, 1993; repealed, 23 SDR 106, effective December 29, 1996.

74:36:04:31. Circumvention of emissions not allowed. A person may not install or cause the installation or use of a device or a means which conceals or dilutes an emission of air pollutants that would otherwise violate this article or the Clean Air Act. This includes operating a source, unit, or control device which emits pollutants into the ambient air from an opening other than the stack, vent, or equivalent opening from which they were designed to be emitted.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:03, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:07, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:07, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:04:32. General permits. The secretary may issue a general permit to a category of air pollution sources that meets the following:

- (1) Involve the same or substantially similar types of operations;
- (2) Require the same or similar type of air emission limits; and
- (3) Require the same or similar record keeping and monitoring.

If a general permit has been issued by the secretary, all sources covered by the general permit shall apply for permission to operate under the general permit. Such sources may not be constructed or operate until they are granted coverage under the general permit, or until they obtain an individual permit if required by the secretary.

Source: 30 SDR 26, effective September 1, 2003; 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-21.

Law Implemented: SDCL 34A-1-56.

Note: The procedural requirements for obtaining a general permit under this chapter are similar to the procedural requirements for a minor source, such as a timely and complete application, completeness review, public participation, and departmental recommendation, as outlined in §§ 74:36:04:06 to 74:36:04:14, inclusive.

74:36:04:33. Secretary may require an individual permit. The secretary may require any source applying for a general permit or operating under a general permit to apply for and obtain an individual air quality permit. Individual air quality permits may be required at the discretion of the secretary, including under the following circumstances;

- (1) The owner or operator is not in compliance with the conditions of its existing individual air permit prior to applying for the general permit; or
- (2) The owner or operator is not in compliance with the conditions of the general permit.

Source: 30 SDR 26, effective September 1, 2003.

General Authority: SDCL 34A-1-21.

Law Implemented: SDCL 34A-1-56.

CHAPTER 74:36:06

REGULATED AIR POLLUTANT EMISSIONS

Section

74:36:06:01	Applicability.
74:36:06:02	Allowable emissions for fuel-burning units.
74:36:06:03	Allowable emissions for process industry units.
74:36:06:04	Particulate emission restrictions for incinerators and waste wood burners.
74:36:06:05	Most stringent interpretation applicable.
74:36:06:06	Stack performance test.
74:36:06:07	Open burning practices prohibited.

74:36:06:01. Applicability. Any unit required to be permitted under this article must comply with the standards and requirements in this chapter except as otherwise specified in chapter 74:36:07, 74:36:08, 74:36:09, 74:36:10, or 74:36:16.

Source: SL 1975, ch 16, § 1; transferred from § 34:10:07:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:07:01, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:07:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:06:02. Allowable emissions for fuel-burning units. An owner or operator of a fuel-burning unit may not cause or permit emissions of the following regulated air pollutants from the combustion of solid, gaseous, or liquid fuels that exceed the following allowable emissions limits that apply to the fuel-burning unit:

(1) Particulate matter:

(a) A fuel-burning unit with heat input values less than 10 million Btus per hour may not exceed .6 pounds of particulate matter per million Btus of heat input; and

(b) A fuel-burning unit with a heat input equal to or greater than 10 million Btus per hour may not exceed the particulate emissions rate determined by the following equation:

$$E = 0.811H^{0.131}, \text{ where}$$

E = the allowable particulate emissions rate in pounds per million Btus of heat input and

H = heat input in millions of Btus per hour;

(2) Sulfur dioxide: A fuel-burning unit may not emit sulfur dioxide emissions to the ambient air in an amount greater than three pounds of sulfur dioxide per million Btus of heat input to the unit based on a three-hour rolling average, which is the arithmetic average of three contiguous one-hour periods.

Source: SL 1975, ch 16, § 1; transferred from § 34:10:07:03, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:07:03, effective July 1, 1981; 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:06:02.01 and 74:26:07:03, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:06:03. Allowable emissions for process industry units. An owner or operator who operates a process industry unit may not cause or permit emissions of the following regulated air pollutants from any unit in excess of the amount expressed in the equation allocated to the unit listed in this section:

(1) Particulate matter:

(a) The allowable particulate emissions rate for process industry units with process weight rates up to 60,000 pounds per hour shall be determined by use of the following equation:

$$E = 4.10 \times P^{0.67}, \text{ and}$$

(b) The allowable particulate emissions rate for process industry units with process weight rates in excess of 60,000 pounds per hour shall be determined by use of the following equation:

$$E = [55.0 \times P^{0.11}] - 40, \text{ where}$$

E = the rate of emission in pounds per hour and

P = process weight rate in tons per hour;

(2) Sulfur dioxide: A process unit which uses combustible fuel may not emit sulfur dioxide emissions to the ambient air in an amount greater than three pounds of sulfur dioxide per million Btus of heat input to the unit based on a three-hour rolling average, which is the arithmetic average of three contiguous one-hour periods.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:06:08 and 34:10:07:03, 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:06:05 and 44:10:07:03, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:06:05 and 74:26:07:03, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:06:04. Particulate emission restrictions for incinerators and waste wood burners. An owner or operator may not cause or permit an incinerator or wood waste burner to emit a regulated air pollutant of a density greater than that designated as 20 percent opacity. No other emission limits apply to these sources except those in chapters 74:36:07 and 74:36:08.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:06:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:06:01, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:06:01, 19 SDR 157, effective April 22, 1993; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:06:05. Most stringent interpretation applicable. If the nature of any unit or the design of any equipment permits more than one interpretation of the limits of this chapter, the interpretation that results in the most stringent value for the allowable emissions shall apply.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:06:10, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:06:07, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:06:07, 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:06:06. Stack performance test. A unit subject to this chapter must follow the requirements in chapter 74:36:11 for stack performance tests. A stack performance test is required under the following conditions:

(1) A new unit or modification of an existing source with the potential to emit any of the regulated pollutants greater than 100 tons per year shall conduct a stack performance test to determine compliance with the applicable standard;

(2) A unit that emits any regulated pollutants may be required to conduct a stack performance test to determine compliance with all applicable emission standards upon renewal of a permit to operate or at the discretion of the secretary.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:05:02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:05:02, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:05:02, 19 SDR 157, effective April 22, 1993; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:06:07. Open burning practices prohibited. The following open burning practices are prohibited:

(1) A person may not burn waste oils, rubber, waste tires, tarpaper, or asphalt shingles. For the purposes of this subdivision, waste oil means any oil that has been refined from crude oil, used, or contaminated by physical or chemical impurities. An exception for crude oil is allowed as a remediation alternative for soils contaminated with crude oil if a person submits the information requested in § 74:12:04:11 and the secretary approves the alternative remediation process;

(2) A municipality or county governmental agency may not burn municipal solid waste unless exempted by the small town exemption in accordance with § 74:27:12:25;

(3) A person may not conduct or permit the operation of a salvage operation by open burning, except as allowed in article 74:27; and

(4) A person may not burn railroad ties or wood treated with inorganic arsenicals, pentachlorophenol, or creosols.

Open burning of any other material must be conducted in accordance with all applicable local ordinances and state laws and rules.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:04:02 and 34:10:04:08, 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:04:02 and 44:10:04:08, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:04:02 and 74:26:04:08, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; transferred from § 74:36:15:01, 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-18.

Law Implemented: SDCL 34A-1-18.

Cross-References: Promulgation of rules -- Factors for consideration -- Scope -- Open burning, SDCL 34A-6-1.6; Open burning restrictions, § 74:27:13:11.

74:36:07:08. Ash disposal requirements. All ash generated at a municipal waste combustor must be disposed of in accordance with article 74:27.

Source: 17 SDR 69, effective November 22, 1990; transferred from § 74:26:26:02, 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:29. Operating requirements for wire reclamation furnaces. New wire reclamation furnaces shall be equipped with a secondary chamber or afterburner which provides for turbulent mixing and a two-second residence time at 2200 degrees Fahrenheit or greater.

New wire reclamation furnaces shall meet applicable emission standards during all phases of operation, and the secondary combustion chamber or combustion zone temperature shall be maintained at required levels until waste is completely combusted.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:30. Monitoring requirements for wire reclamation furnaces. An owner or operator of a new regulated wire reclamation furnace shall install, calibrate, operate, and maintain devices which continuously monitor and record the temperature of gases leaving the secondary or final combustion chamber. Such devices must have an accuracy of plus or minus 25 degrees Fahrenheit. Flames from the burners may not impact the temperature sensors.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-11.

those in 40 C.F.R. § 60 Subpart K (July 1, 2016). A source that operates a unit subject to 40 C.F.R. § 60 Subpart K (July 1, 2016) is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 60 Subpart K (July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart K (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:14:05, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:13. Standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984. The standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984, are those in 40 C.F.R. § 60 Subpart Ka (July 1, 2016). A source that operates a unit subject to 40 C.F.R. § 60 Subpart Ka (July 1, 2016) is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 60 Subpart Ka (July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart Ka (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:20:19, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:14. Standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984. The standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984, are those in 40 C.F.R. § 60 Subpart Kb (July 1, 2016). A source that operates a unit subject to 40 C.F.R. § 60 Subpart Kb (July 1, 2016) is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 60 Subpart Kb (July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart Kb (July 1, 2016).

Source: 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:25:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000;

30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:15. Standards of performance for sewage treatment plants. The standards of performance for sewage treatment plants are those in 40 C.F.R. § 60 Subpart O (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:15:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:16. Standards of performance for coal preparation plants. The standards of performance for coal preparation plants are those in 40 C.F.R. § 60, Subpart Y (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:16:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:17. Standards of performance for grain elevators. The standards of performance for grain elevators are those in 40 C.F.R. § 60 Subpart DD (July 1, 2016). A source subject to 40 C.F.R. § 60 Subpart DD (July 1, 2016) is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 60 Subpart DD (July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart DD (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:17:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:18. Standards of performance for stationary gas turbines. The standards of performance for stationary gas turbines are those in 40 C.F.R. § 60 Subpart GG (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:19:07, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:19. Standards of performance for lime manufacturing plants. The standards of performance for lime manufacturing plants are those in 40 C.F.R. § 60 Subpart HH (July 1, 2016).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:18:10, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:20. Standards of performance for metallic mineral processing plants. The standards of performance for metallic mineral processing plants are those in 40 C.F.R. § 60 Subpart LL (July 1, 2016).

Source: 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:21:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:21. Standards of performance for pressure-sensitive tape and label surface coating operations. The standards of performance for pressure-sensitive tape and label surface coating operations are those in 40 C.F.R. § 60 Subpart RR (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:22. Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry. The standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry are those in 40 C.F.R. § 60 Subpart VV (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:22.01. Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after November 7, 2006. The standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry, for which construction, reconstruction, or modification commenced after November 7, 2006, are those in 40 C.F.R. § 60, Subpart VVa (July 1, 2016).

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:23. Standards of performance for bulk gasoline terminals. The standards of performance for bulk gasoline terminals are those in 40 C.F.R. § 60 Subpart XX (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:24. Standards of performance for new residential wood heaters. The standards of performance for new residential wood heaters are those in 40 C.F.R. § 60 Subpart AAA (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:25. Standards of performance for petroleum dry cleaners. The standards of performance for petroleum dry cleaners are those in 40 C.F.R. § 60 Subpart JJJ (July 1, 2016). A source subject to 40 C.F.R. § 60 Subpart JJJ (July 1, 2016) is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 60 Subpart JJJ (July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart JJJ (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:26. Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations. The standards of performance for VOC emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations are those in 40 C.F.R. § 60 Subpart NNN (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:27. Standards of performance for nonmetallic mineral processing plants. The standards of performance for nonmetallic mineral processing plants are those in 40 C.F.R. § 60 Subpart OOO (July 1, 2016).

Source: 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:23:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:28. Standards of performance for magnetic tape coating facilities. The standards of performance for magnetic tape coating facilities are those in 40 C.F.R. § 60 Subpart SSS (July 1, 2016).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:31. Standards of performance for graphic arts industry -- Publication rotogravure printing. The standards of performance for publication rotogravure printing in the graphic arts industry are those in 40 C.F.R. § 60 Subpart QQ (July 1, 2016).

Source: 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:32. Standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes. The standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes are those in 40 C.F.R. § 60, Subpart RRR (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:33. Standards of performance for calciners and dryers in mineral industries.

The standards of performance for calciners and dryers in mineral industries are those in 40 C.F.R. § 60, Subpart UUU (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:34. Existing municipal solid waste landfill. The owner or operator of an existing municipal solid waste landfill that meets the following conditions shall comply with §§ 74:36:07:35 to 74:36:07:42, inclusive:

(1) The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition;

(2) The landfill has a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters. The landfill may calculate design capacity either in megagrams or cubic meters. Density conversions must be documented and submitted with the report; and

(3) The landfill has a nonmethane organic compound emission rate of 50 megagrams a year or more. The calculation of the landfill nonmethane organic compound emission rate must meet the requirements of 40 C.F.R. § 60.754 (July 1, 2016), to determine the landfill nonmethane organic compound emission rate.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 209, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:35. Plan submittal by existing municipal solid waste landfills. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall submit a plan within one year of the first annual report showing the nonmethane organic compound emissions equal or exceed 50 megagrams a year. The plan must be prepared by a professional engineer and contain a collection and control system and a compliance schedule that meets § 74:36:07:38. The plan must be approved by the department in accordance with §§ 74:36:07:36 to 74:36:07:38, inclusive.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:36. Collection system. The department shall approve the collection and control system plan if it is equivalent to or meets the conditions provided in 40 C.F.R. § 60.752(b)(2)(ii) (July 1, 2016), and the control requirements in § 74:36:07:37.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:37. Control system. The department shall approve the control system if it is equivalent to or meets one of the following requirements:

(1) An open flare designed and operated in accordance with the parameters established in 40 C.F.R. § 60.18 (July 1, 2016);

(2) A control system designed and operated to reduce nonmethane organic compounds by 98 percent by weight; or

(3) An enclosed combustor designed and operated to either reduce nonmethane organic compounds by 98 percent by weight or the outlet nonmethane organic compound concentration to 20 parts per million as hexane by volume, dry basis at three percent oxygen, or less.

Source: 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:38. Compliance schedule for existing municipal solid waste landfills. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 must meet the following compliance dates:

(1) Award contracts within 15 months of the first annual report showing the nonmethane organic compound emissions equal or exceed 50 megagrams a year;

(2) Begin construction within 18 months of the first annual report showing the nonmethane organic compound emissions equal or exceed 50 megagrams a year;

(3) Complete construction within 30 months of the first annual report showing the nonmethane organic compound emissions equal or exceed 50 megagrams a year; and

(4) Demonstrate compliance with all applicable requirements within 180 days of completing construction.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:39. Existing municipal solid waste landfill operational standards for collection and control systems. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the operational standards for collection and control systems in 40 C.F.R. § 60.753 (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:40. Existing municipal solid waste landfill compliance provisions. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the compliance provisions in 40 C.F.R. § 60.755 (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:41. Existing municipal solid waste landfill monitoring provisions. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the monitoring provisions in 40 C.F.R. § 60.756 (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:42. Existing municipal solid waste landfill reporting and recordkeeping. The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the reporting and recordkeeping requirements specified in 40 C.F.R. §§ 60.757 and 60.758 (July 1, 2016).

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:42.01. Additional reporting for existing municipal solid waste landfills. The owner or operator of an existing municipal solid waste landfill that meets the requirements of subdivisions 74:36:07:34(1) and (2) shall submit an initial nonmethane organic compound emission rate report within 90 days of the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act and annually or every five years thereafter in accordance with 40 C.F.R. § 60.757(b) (July 1, 2016).

Source: 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18

74:36:07:43. Standards of performance for new municipal solid waste landfills. The standards of performance for municipal solid waste landfills that commenced construction, reconstruction, or modification on or after May 29, 1991, are those in 40 C.F.R. § 60 Subpart WWW (July 1, 2016). Physical or operational changes made to existing municipal solid waste landfills solely to comply with §§ 74:36:07:34 to 74:36:07:42, inclusive, or activities required by or conducted pursuant to a CERCLA, RCRA, or state remedial action are not considered construction, reconstruction, or modification for purposes of this section.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:44. Standards of performance for nitric acid plants. The standards of performance for nitric acid plants are those in 40 C.F.R. § 60 Subpart G (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:45. Standards of performance for sulfuric acid plants. The standards of performance for sulfuric acid plants are those in 40 C.F.R. § 60 Subpart H (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:46. Standards of performance for petroleum refineries. The standards of performance for petroleum refineries are those in 40 C.F.R. § 60, Subpart J (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:46.01. Standards of performance for petroleum refineries for which construction, reconstruction, or modification commenced after May 14, 2007. The standards of performance for petroleum refineries for which construction, reconstruction, or modification commenced after May 14, 2007, are those in 40 C.F.R. § 60, Subpart Ja, (July 1, 2016).

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:47. Standards of performance for secondary lead smelters. The standards of performance for secondary lead smelters are those in 40 C.F.R. § 60 Subpart L (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:48. Standards of performance for secondary brass and bronze production plants. The standards of performance for secondary brass and bronze production plants are those in 40 C.F.R. § 60 Subpart M (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:49. Standards of performance for primary emissions from basic oxygen process furnaces for which construction commenced after June 11, 1973. The standards of performance for basic oxygen process furnaces are those in 40 C.F.R. § 60 Subpart N (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:50. Standards of performance for secondary emissions from basic oxygen process steelmaking facilities for which construction commenced after January 20, 1983. The standards of performance for basic oxygen process steelmaking facilities are those in 40 C.F.R. § 60 Subpart Na (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:51. Standards of performance for primary copper smelter. The standards of performance for primary copper smelters are those in 40 C.F.R. § 60 Subpart P (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:52. Standards of performance for primary zinc smelter. The standards of performance for primary zinc smelters are those in 40 C.F.R. § 60 Subpart Q (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:53. Standards of performance for primary lead smelter. The standards of performance for primary lead smelters are those in 40 C.F.R. § 60 Subpart R (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:54. Standards of performance for primary aluminum reduction plant. The standards of performance for primary aluminum reduction plants are those in 40 C.F.R. § 60 Subpart S (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:55. Standards of performance for wet-process phosphoric acid plant. The standards of performance for wet-process phosphoric acid plants are those in 40 C.F.R. § 60 Subpart T (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:56. Standards of performance for superphosphoric acid plant. The standards of performance for superphosphoric acid plants are those in 40 C.F.R. § 60 Subpart U (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:57. Standards of performance for diammonium phosphate plant. The standards of performance for diammonium phosphate plants are those in 40 C.F.R. § 60 Subpart V (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:58. Standards of performance for triple superphosphate plant. The standards of performance for triple superphosphate plants are those in 40 C.F.R. § 60 Subpart W (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:59. Standards of performance for granular triple superphosphate storage facility. The standards of performance for granular triple superphosphate storage facilities are those in 40 C.F.R. § 60 Subpart X (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:60. Standards of performance for ferroalloy production plant. The standards of performance for ferroalloy production plants are those in 40 C.F.R. § 60 Subpart Z (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:61. Standards of performance for electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983. The standards of performance for electric arc furnaces and argon-oxygen decarburization vessels are those in 40 C.F.R. § 60 Subpart AAa (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:62. Standards of performance for kraft pulp mills. The standards of performance for kraft pulp mills are those in 40 C.F.R. § 60 Subpart BB (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:63. Standards of performance for glass manufacturing plant. The standards of performance for glass manufacturing plants are those in 40 C.F.R. § 60 Subpart CC (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:64. Standards of performance for surface coating of metal furniture. The standards of performance for surface coating of metal furniture are those in 40 C.F.R. § 60 Subpart EE (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:65. Standards of performance for lead-acid battery manufacturing plant. The standards of performance for lead-acid battery manufacturing plants are those in 40 C.F.R. § 60 Subpart KK (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:66. Standards of performance for automobile and light duty truck surface coating operations. The standards of performance for automobile and light duty truck surface coating operations are those in 40 C.F.R. § 60 Subpart MM (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 208, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:67. Standards of performance for phosphate rock plants. The standards of performance for phosphate rock plants are those in 40 C.F.R. § 60 Subpart NN (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:68. Standards of performance for ammonium sulfate manufacture. The standards of performance for ammonium sulfate manufacture are those in 40 C.F.R. § 60 Subpart PP (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:69. Standards of performance for industrial surface coating -- Large appliances. The standards of performance for industrial surface coating of large appliances are those in 40 C.F.R. § 60 Subpart SS (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:70. Standards of performance for metal coil surface coating. The standards of performance for metal coil surface coating are those in 40 C.F.R. § 60 Subpart TT (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:71. Standards of performance for asphalt processing and asphalt roofing manufacture. The standards of performance for asphalt processing and asphalt roofing manufacture are those in 40 C.F.R. § 60 Subpart UU (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:72. Standards of performance for beverage can surface coating industry. The standards of performance for beverage can surface coating industry are those in 40 C.F.R. § 60 Subpart WW (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:73. Standards of performance for rubber tire manufacturing industry. The standards of performance for rubber tire manufacturing industry are those in 40 C.F.R. § 60 Subpart BBB (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:74. Standards of performance for volatile organic compound emissions from polymer manufacturing industry. The standards of performance for polymer manufacturing industry are those in 40 C.F.R. § 60 Subpart DDD (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:75. Standards of performance for flexible vinyl and urethane coating and printing. The standards of performance for flexible vinyl and urethane coating and printing are those in 40 C.F.R. § 60 Subpart FFF (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:76. Standards of performance for equipment leaks of VOC in petroleum refineries. The standards of performance for equipment leaks in petroleum refineries are those in 40 C.F.R. § 60 Subpart GGG (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:76.01. Standards of performance for equipment leaks of VOC in petroleum refineries. The standards of performance for equipment leaks in petroleum refineries for which construction, reconstruction, or modification commenced after November 7, 2006, are those in 40 C.F.R. § 60, Subpart GGGa, (July 1, 2016).

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:77. Standards of performance for synthetic fiber production facility. The standards of performance for synthetic fiber production facilities are those in 40 C.F.R. § 60 Subpart HHH (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:78. Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry air oxidation unit process. The standards of performance for synthetic organic chemical manufacturing industry air oxidation unit processes are those in 40 C.F.R. § 60 Subpart III (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:79. Standards of performance for equipment leaks of VOC from onshore natural gas processing plant. The standards of performance for equipment leaks from onshore natural gas processing plants are those in 40 C.F.R. § 60 Subpart KKK (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:80. Standards of performance for onshore natural gas processing. The standards of performance for onshore natural gas processing are those in 40 C.F.R. § 60 Subpart LLL (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:81. Standards of performance for wool fiberglass insulation manufacturing plant. The standards of performance for wool fiberglass insulation manufacturing plants are those in 40 C.F.R. § 60 Subpart PPP (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:82. Standards of performance for VOC emissions from petroleum refinery wastewater system. The standards of performance for petroleum refinery wastewater systems are those in 40 C.F.R. § 60 Subpart QQQ (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:83. Standards of performance for industrial surface coating -- Surface coating of plastic parts for business machines. The standards of performance for the surface

coating of plastic parts for business machines are those in 40 C.F.R. § 60 Subpart TTT (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:84. Standards of performance for polymeric coating of supporting substrates facility. The standards of performance for polymeric coating of supporting substrates facilities are those in 40 C.F.R. § 60 Subpart VVV (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:85. Standards of performance for small municipal waste combustion units for which construction commenced after August 30, 1999, or modification or reconstruction commenced after June 6, 2001. The standards of performance for small municipal waste combustion units are those in 40 C.F.R. § 60, Subpart AAAA (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:86. Standards of performance for commercial or industrial solid waste incineration units for which construction commenced after November 30, 1999, or modification or reconstruction commenced on or after June 1, 2001. The standards of performance for commercial solid waste incineration units are those in 40 C.F.R. § 60, Subpart CCCC (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:87. Standards of performance for other solid waste incineration units for which construction commenced after December 9, 2004, or modification or reconstruction commenced on or after June 16, 2006. The standards of performance for other solid waste incineration units are those in 40 C.F.R. § 60, Subpart EEEE (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:88. Standards of performance for stationary compression ignition internal combustion engines. The standards of performance for stationary compression ignition internal combustion engines are those in 40 C.F.R. § 60, Subpart IIII (July 1, 2016). A source subject to Subpart IIII is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart IIII. Exempted sources must still meet the applicable requirements in Subpart IIII.

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:89. Standards of performance for stationary combustion turbines. The standards of performance for stationary combustion turbines are those in 40 C.F.R. §§ 60.4300 to 60.4420, inclusive, (July 1, 2016).

Source: 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:90. Standards of performance for stationary spark ignition internal combustion engines. The standards of performance for stationary spark combustion engines are those in 40 C.F.R. § 60, Subpart JJJJ (July 1, 2016). A source subject to Subpart JJJJ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart JJJJ. Exempted sources must still meet the applicable requirements in Subpart JJJJ.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:91. Standards of performance for nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011. The standards of performance for nitric acid plants are those in 40 C.F.R. § 60, Subpart Ga (July 1, 2016).

Source: 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:92. Standards of performance for new sewage sludge incineration units. The standards of performance for new sewage sludge incineration units are those in 40 C.F.R. § 60, Subpart LLLL (July 1, 2016).

Source: 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:93. Standards of performance for crude oil and natural gas production, transmission and distribution. The standards of performance for crude oil and natural gas production, transmission, and distribution are those in 40 C.F.R. § 60, Subpart OOOO (July 1, 2016).

Source: 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

CHAPTER 74:36:09

PREVENTION OF SIGNIFICANT DETERIORATION

Section

- 74:36:09:01 Applicability.
- 74:36:09:01.01 Prevention of significant deterioration permit required.
- 74:36:09:02 Prevention of significant deterioration.
- 74:36:09:03 Public participation.

74:36:09:01. Applicability. This chapter applies to all areas of the state which are designated attainment or unclassifiable pursuant to § 107(d)(1)(A)(ii) and (iii) of the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993; 33 SDR 43, effective September 18, 2006.

General Authority: SDCL 34A-1-6, 34A-1-18.

Law Implemented: SDCL 34A-1-18.

74:36:09:01.01. Prevention of significant deterioration permit required. New major stationary sources or major modifications to existing major stationary sources that locate in an attainment or unclassified area must obtain a prevention of significant deterioration permit prior to beginning actual construction.

Source: 30 SDR 26, effective September 1, 2003; 33 SDR 43, effective September 18, 2006.

General Authority: SDCL 34A-1-6, 34A-1-18.

Law Implemented: SDCL 34A-1-18.

74:36:09:02. Prevention of significant deterioration. For the purposes of this chapter, the state's definitions and requirements for the prevention of significant deterioration are those in 40 C.F.R. § 52.21 (July 1, 2018), except for 40 C.F.R. § 52.21(a)(1), (a)(2)(iv)(e), (b)(2)(iii)(h), (b)(3)(iii)(b), (b)(32), (b)(42), (b)(49)(v), (b)(55), (b)(56), (b)(57), (b)(58), (f), (k)(2), (q), (s), (t), (u), (x), (y), (z), and (cc) (July 1, 2018) with the following differences:

(1) For the purposes of this section, all terms defined in this section have the meaning defined in 40 C.F.R. § 52.21, except for the term "administrator" which means the secretary with the following exceptions:

(a) In 40 C.F.R. §§ 52.21(b)(3)(iii) and 52.21(b)(37)(iii), the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(b) In 40 C.F.R. §§ 52.21(w)(2) through 52.21(w)(4), the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(c) In 40 C.F.R. §§ 52.21(b)(17); 52.21(b)(37)(i); 52.21(b)(43); 52.21(b)(48)(ii)(c); 52.21(b)(50)(i); 52.21(g)(1) through 52.21(g)(6); 52.21(l)(2); and 52.21(p)(2) the term "administrator" means the administrator of EPA;

(2) For the purposes of this section, the term "Act" means the Clean Air Act;

(3) For the purposes of this section, in 40 C.F.R. § 52.21(c), the Class I areas in South Dakota are Wind Cave National Park and the Badlands National Park;

(4) For the purposes of this section, 40 C.F.R. § 52.21(b)(2)(iii)(a) is incorporated by reference excluding the second sentence which states, "Routine maintenance, repair and replacement shall include, but not be limited to, any activity that meets the requirements of the equipment replacement provisions contained in paragraph (cc) of this section";

(5) For the purposes of this section, 40 C.F.R. § 52.21(v)(1) is incorporated by reference excluding the phrase, "under 40 CFR 124.10";

(6) For the purposes of this section, 40 C.F.R. § 52.21(w)(1) through (w)(3), is incorporated by reference as amended and published in 81 Fed. Reg. 78048 (November 7, 2016);

(7) For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(i) is incorporated by reference excluding the phrase, "through (v)";

(8) For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(ii), the term "(b)(49)(iii) through (v)" means "(b)(49)(iii) through (iv)";

(9) For the purposes of this section, 40 C.F.R. § 52.21 (b)(49)(iii) is incorporated by reference excluding the phrase, "through (v)"; and

(10) For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(iv)(b), the term "also will have an emissions increase of a regulated NSR pollutant" means "also will have a major modification of a regulated NSR pollutant that is not GHGs".

The secretary shall transmit to the administrator of the EPA a copy of each permit application subject to this section and shall notify the administrator of the EPA of each significant action the secretary takes on the application.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 33 SDR 43, effective September 18, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 37 SDR 182, effective April 20, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-18.

Law Implemented: SDCL 34A-1-18.

74:36:09:03. Public participation. For the purposes of this chapter, the state's public participation procedures are those in 40 C.F.R. § 51.166(q) (July 1, 2018), excluding the phrase "The plan shall provide that..." with the following differences:

(1) For the purposes of this section, in 40 C.F.R. § 52.166(q) the phrase "reviewing authority" means the secretary;

(2) For the purposes of this section, in 40 C.F.R. § 51.166(q)(1) the phrase "specified time period" means 60 days;

(3) For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(iv), the term "administrator" means the administrator of EPA;

(4) For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(iii), the phrase "Notify the public" shall consist of a public notice once in a legal newspaper in the county where the proposed source would be constructed. The public notice shall include a statement that a person may submit comments or contest the draft permit within 30 days after the publication of the notice. The statement shall also describe the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09;

(5) For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(v), a public hearing is required if a person contests the draft permit or contests the secretary's final determination and requests a hearing in accordance with article 74:09; and

(6) For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(viii), if a request for a contested case hearing is not submitted during the public notice period, the secretary shall make a final determination within 30 days of the end of the public comment period on the draft permit.

The secretary shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final determination. The notice shall include reference to the procedures for contesting the final determination and requesting a hearing in accordance with article 74:09 within 30 days of receiving the secretary's final determination. If no person comments on a draft permit, requests changes, or contests the draft permit during the public notice period, the draft permit automatically becomes the secretary's final determination and is issued at the end of the public notice period.

Source: 33 SDR 43, effective September 18, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-18.

Law Implemented: SDCL 34A-1-18.

CHAPTER 74:36:10
NEW SOURCE REVIEW

Section	
74:36:10:01	Applicability.
74:36:10:02	Definitions.
74:36:10:03	Repealed.
74:36:10:03.01	New source review preconstruction permit required.
74:36:10:04	Repealed.
74:36:10:05	New source review preconstruction permit.
74:36:10:06	Causing or contributing to a violation of any national ambient air quality standard.
74:36:10:07	Determining credit for emission offsets.
74:36:10:08	Projected actual emissions.
74:36:10:09	Repealed.
74:36:10:10	Repealed

74:36:10:01. Applicability. This chapter applies to areas of the state which are designated as nonattainment pursuant to § 107 of the Clean Air Act for any pollutant regulated under the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:02. Definitions. For the purposes of this chapter, the definitions for new source review are those in 40 C.F.R. § 51.165(a)(1), except for the second sentence of 40 C.F.R. § 51.165(a)(1)(v)(C)(1), and 40 C.F.R. § 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(xliii), (a)(1)(xliv), (a)(1)(xlv), and (a)(1)(xlvi) (July 1, 2018).

For the purposes of this chapter, the term, Act, means the Clean Air Act.

For the purposes of this section, the term, reviewing authority, means the secretary.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:03. Net emissions increase defined. Repealed.

Source: 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:06.01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 30 SDR 26, effective September 1, 2003.

74:36:10:03.01. New source review preconstruction permit required. New major stationary sources or major modifications to existing major sources must obtain a preconstruction permit before beginning actual construction if they are located in the following areas:

(1) An attainment or unclassified area if the source would cause or contribute to a violation of any national ambient air quality standard; or

(2) An area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment.

Except as provided by a plant-wide applicability limit, a proposed project is considered a major modification to an existing major source if the proposed project meets the criteria in 40 C.F.R. § 51.165(a)(2)(ii)(A) through (F), (July 1, 2018).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-6, 34A-1-21.

Note: The procedural requirements for obtaining a preconstruction permit under the new source review program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 through 74:36:05:20.01.

74:36:10:04. Criteria for creditability of increase or decrease in actual emissions. Repealed.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 30 SDR 26, effective September 1, 2003.

74:36:10:05. New source review preconstruction permit. A new source review preconstruction permit must satisfy the following criteria before beginning actual construction:

- (1) All requirements for new source performance standards in chapter 74:36:07 that apply to the facility;
- (2) Compliance with the lowest achievable emission rate;
- (3) Certification of compliance that all other major sources, major modifications, reconstructed facilities that are owned, operated, or controlled by the applicant either in whole or in part elsewhere in the state are in compliance with all applicable emission limitations and standards; and
- (4) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit. Emissions offsets are determined in accordance with § 74:36:10:07.

The owner or operator may apply for a plant-wide applicability limit. The procedures for a plant-wide allowable limit are those in 40 C.F.R. § 51.165(f)(1) to (f)(15), inclusive, (July 1, 2018).

Approval to construct does not relieve an owner or operator of the responsibility to comply fully with applicable provisions of this article or the Clean Air Act and any other requirements under local, state, or federal law.

Submission of preconstruction monitored or projected ambient air quality data, or both, from the proposed source must accompany the permit application. In addition, air quality dispersion modeling and meteorological data for the prescribed area may be required by the department. Costs of these requirements must be absorbed by the proposed source.

Source: 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:16, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:16, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6, 34A-1-22.

74:36:10:06. Causing or contributing to a violation of any national ambient air quality standard. This section applies to any major stationary source or major modification to an existing major source that is located in an attainment or unclassifiable area that may cause or contribute to violation of a national ambient air quality standard. A major stationary source or major modification to an existing major source is considered to cause or contribute to a violation of a national ambient air quality standard if the source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

POLLUTANT AND SIGNIFICANT LEVELS

			Averaging time (hours)
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	Annual	24	8	3	1
(1) SO ₂ :	1.0 ug/m ³	5 ug/m ³	-	25 ug/m ³	-
(2) PM ₁₀ :	1.0 ug/m ³	5 ug/m ³	-	-	-
(3) NO ₂ :	1.0 ug/m ³	-	-	-	-
(4) CO	-	-	0.5 mg/m ³	-	2 mg/m ³

The owner or operator of a new major stationary source or major modification to an existing major source may reduce the impact of its emissions on air quality by obtaining emission offsets to compensate for its adverse ambient impact where the new major source or major modification to an existing major source would otherwise cause or contribute to a violation of the national ambient air quality standard. The procedures for determining credit for emission offsets are those in § 74:36:10:07.

Source: 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:16:02, 19 SDR 157, effective April 22, 1993; 30 SDR 26, effective September 1, 2003; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:07. Determining credit for emission offsets. The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emission of sources located within a designated nonattainment area; or if there is no applicable emission limit.

In determining credit for emission offsets the following criteria shall be met:

(1) All offsets must be for the same regulated NSR pollutant, result in a net positive air quality benefit in the affected area, and be approved by the department before issuance of the permit, even though they need not be in effect until the source commences operation. The offset ratio of total actual emissions reductions to the emissions increase shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the offset requirements in 40 C.F.R. § 51.165(a)(9)(ii) through 51.165(a)(9)(iv) (July 1, 2018);

(2) External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;

(3) The permissible location of offsetting emissions shall be conducted in accordance with 40 C.F.R., Part 51, Appendix S, section IV.D (July 1, 2018);

(4) For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If the existing source agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if permit conditions specify an alternative control measure that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date;

(5) Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier. Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

(6) Except as set forth in 40 C.F.R. § 51.165(a)(3)(ii)(D) (July 1, 2018), emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity;

(7) Credit for emissions reduction may be claimed to the extent that the department has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

(8) If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit; and

(9) All emission reductions claimed as offset credit must be federally enforceable.

Source: 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:01:15 and 44:10:01:17, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:01:15, 74:26:01:16.01, and 74:26:01:17, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21, 34A-1-22.

74:36:10:08. Projected actual emissions. Any owner or operator who proposes a project for existing emissions units at a major stationary source that is not considered a major modification based on projected actual emissions but may result in a significant emission increase shall comply with the requirements in 40 C.F.R. § 51.165(a)(6)(i) through (vi), (July 1, 2018). This section does not apply to a source with a plant-wide applicability limit.

The owner or operator shall make the information required to be documented in 40 C.F.R. § 51.165(a)(6)(i) through (vi), (July 1, 2018) available for review upon a request for inspection by the secretary or the general public pursuant to the requirements contained in 40 C.F.R. § 70.4(b)(3)(viii) (July 1, 2018).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:09. Clean unit test for emission units subject to lowest achievable emission rate. Repealed.

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; repealed, 39 SDR 219, effective June 25, 2013.

74:36:10:10. Clean unit test for emission units comparable to lowest achievable emission rate. Repealed.

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; repealed, 39 SDR 219, effective June 25, 2013.

CHAPTER 74:36:11

PERFORMANCE TESTING

Section

- 74:36:11:01 Stack performance testing or other testing methods.
74:36:11:02 Secretary may require performance tests.
74:36:11:03 Notice to department of performance test.
74:36:11:04 Testing new fuels or raw materials.

74:36:11:01. Stack performance testing or other testing methods. All stack performance tests or other test methods must be made in accordance with the applicable method specified in 40 C.F.R. § 60.17; Part 60, Appendix A; § 63.14; Part 63, Appendix A; and Part 51, Appendix M (all July 1, 2018).

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:05:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:05:01, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:05:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:11:02. Secretary may require performance tests. The secretary may conduct or require a performance test of emissions, including stack sampling, for air pollutants from any source to determine compliance with regulated pollutant emission standards. Upon the request of the secretary, the owner or operator of the source to be tested must provide necessary ports in stacks or ducts and any other safe and applicable sampling and testing facilities necessary for determination of the emissions of air pollutants. The results of the required performance test must

be submitted to the department within 60 days after the completion of the performance test or as designated by the department.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:05:02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:05:02, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:05:02, 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:11:03. Notice to department of performance test. The owner or operator of an affected facility shall notify the department at least 10 days before the start of a performance test to arrange for an agreeable test date when a department representative may observe the test.

Source: 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:11:04. Testing new fuels or raw materials. The owner or operator of a permitted source may request permission to test a new fuel or raw material to determine if it is compatible with existing equipment and to determine air emission rates before requesting a permit amendment or modification. A complete request shall consist of:

- (1) A written proposal that describes the new fuel or raw material;
- (2) An estimate of the type and amount of regulated air pollutant emissions that will result from the change; and
- (3) The schedule for conducting the test and the duration of the test. In most cases the owner or operator will be allowed to test for a maximum of one week. A request for a test period longer than one week will need additional justification. A test period shall not exceed 180 days.

Within 45 days after receipt of a complete proposal to conduct a test, the department shall notify the owner or operator in writing as to whether or not the department approves the test. If approved, the department's written response shall specify the schedule for conducting the test and outline the test requirements. The requirements may include performance testing, visible emission evaluation, fuel analysis, dispersion modeling, and monitoring of raw material or fuel rates.

If the department determines that the change will increase an emission of a regulated air pollutant or result in the emission of an additional regulated air pollutant, the department shall give public notice of the proposed test for 30 days. The department shall consider all comments received during the 30-day public comment period before making a final decision on the test.

The department will not approve a test if the test would cause or contribute to a violation of a national ambient air quality standard.

Source: 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6, 34A-1-12, 34A-1-21.

CHAPTER 74:36:12
CONTROL OF VISIBLE EMISSIONS

Section

- 74:36:12:01 Restrictions on visible emissions.
74:36:12:02 Exceptions to restrictions.
74:36:12:03 Exceptions granted to alfalfa palletizes or dehydrators.

74:36:12:01. Restrictions on visible emissions. The owner or operator of a source may not discharge into the ambient air from a single unit of emissions an air pollutant of a density equal to or greater than that designated as 20 percent opacity, as established by the Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018).

Source: SL 1975, ch 16, § 1; transferred from § 34:10:03:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:03:01, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:03:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:12:02. Exceptions to restrictions. The provisions of § 74:36:12:01 do not apply in the following circumstances:

- (1) If the presence of uncombined water is the only reason for failure to meet the requirements of § 74:36:12:01;
- (2) If smoke is emitted for the purpose of training or research and is approved by the department; and
- (3) For brief periods during soot blowing, start-up, shut-down, and malfunctions.

Source: SL 1975, ch 16, § 1; transferred from § 34:10:03:03, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:03:03, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:03:03, 19 SDR 157, effective April 22, 1993; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:12:03. Exceptions granted to alfalfa palletizes or dehydrators. The owner or operator of a facility that pelletizes or dehydrates alfalfa, or that does both, may discharge into the ambient air an air pollutant of a density no greater than 30 percent opacity, as established by the Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018).

Source: 8 SDR 133, effective April 18, 1982; 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:03:05, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective

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June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

CHAPTER 74:36:13

CONTINUOUS EMISSION MONITORING SYSTEMS

Section

74:36:13:01	Secretary may require continuous emission monitoring systems (CEMS).
74:36:13:02	Minimum performance specifications for all continuous emission monitoring systems.
74:36:13:03	Reporting requirements.
74:36:13:04	Notice to department of exceedance.
74:36:13:05	Compliance determined by data from continuous emission monitor.
74:36:13:06	Compliance certification.
74:36:13:07	Credible evidence.
74:36:13:08	Compliance assurance monitoring.

74:36:13:01. Secretary may require continuous emission monitoring systems (CEMS).

The secretary may require major stationary air pollution sources to install, calibrate, operate, and maintain equipment approved by the department for the continuous monitoring and recording of emission data to determine compliance with a regulated air pollutant standard or where there is reason to believe there is a violation.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:02. Minimum performance specifications for all continuous emission monitoring systems. Minimum performance specifications for all continuous emission monitoring systems are those contained in 40 C.F.R. Part 60, Appendix B and 40 C.F.R. § 60.13 (July 1, 2018).

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:03. Reporting requirements. Owners or operators of those sources required to install continuous emission monitoring systems shall observe the reporting requirements contained in 40 C.F.R. § 60.7 (July 1, 2018). All records must be made available to the department on request.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:04. Notice to department of exceedance. Any emissions that exceed the standards listed in 40 C.F.R. Part 60 (July 1, 2018) or this article that are detected through continuous emission monitoring systems must be reported to the department within the time constraints as determined by the secretary in the permit to operate.

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:05. Compliance determined by data from continuous emission monitor. The emissions data from a continuous emission monitor on a unit shall be used to monitor compliance. The compliance requirements for the continuous emission monitor data shall be placed in the conditions of the permit to operate.

Source: 19 SDR 157, effective April 22, 1993.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:06. Compliance certification. Notwithstanding any other provision in any plan approved by the administrator, for the purpose of submission of compliance certifications an owner or operator may use monitoring as required under 40 C.F.R. § 70.6(a)(3) (July 1, 2018) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

Source: 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:07. Credible evidence. Notwithstanding any other provision, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of a plan. Credible evidence is as follows:

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(a) A monitoring method approved for the source pursuant to 40 C.F.R. § 70.6(a)(3) (July 1, 2018) and incorporated in a federally enforceable operating permit;

(b) Compliance methods specified in the applicable plan; and

(2) The following testing, monitoring, or information gathering methods are presumptively credible testing, monitoring, or information-gathering methods;

(a) Any federally enforceable monitoring or testing methods, including those in 40 C.F.R. Parts 51, 60, 61, and 75 (July 1, 2018);

(b) Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any method in subdivision (1) or (2)(a).

Source: 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

74:36:13:08. Compliance assurance monitoring. The owner or operator of a unit that is subject to 40 C.F.R. § 64.2 (July 1, 2018), must comply with 40 C.F.R. §§ 64.1 and 64.3 to 64.10 (July 1, 2018).

Source: 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-12.

Law Implemented: SDCL 34A-1-12.

CHAPTER 74:36:17

RAPID CITY STREET SANDING AND DEICING

Section

- 74:36:17:01 Applicability.
- 74:36:17:02 Reasonable available control technology.
- 74:36:17:03 Street sanding specifications.
- 74:36:17:04 Street sanding and deicing plan.
- 74:36:17:05 Street sanding and sweeping recordkeeping.
- 74:36:17:06 Inspection authority.

74:36:17:01. Applicability. This rule applies to the application of or removal of any street sanding or deicing materials on the streets in the Rapid City zone. The Rapid City zone comprises the streets within the city limits of Rapid City bordered on the west and south by the city limits, on the north by the southern right-of-way boundary of Interstate 90, and on the east by the eastern right-of-way boundary of Highway 79.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-15, 34A-1-38.

74:36:17:02. Reasonable available control technology. Any operation to which this rule applies shall provide for reasonable available control technology to prevent the entrainment or reentrainment of road dust into the ambient air. Such controls include the following practices:

(1) For operations involving the application of street sanding material and deicing agents on paved roads:

(a) Utilizing forecasting of weather events to determine whether to pretreat roads with deicing agent or to apply no treatment;

(b) Monitoring street temperatures to determine if deicing agents or street sanding materials need to be applied;

(c) Limiting the application of street sanding material to intersections, inclined and curved roads, school zones, hospital zones, emergency routes, and fire station zones to the greatest extent possible; unless icy conditions exist; and

(d) The use of pretreatment deicing or antiskid agents in place of aggregate street sanding materials to the greatest extent possible;

(2) For operations involving the removal of street sanding and deicing agents from paved roads:

(a) Flushing core downtown streets with water, except where meteorological conditions endanger public safety; and

(b) Removing street sanding material from roads when road conditions become dry, using the most efficient cleaning devices on high traffic roads.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-15, 34A-1-19, 34A-1-38.

74:36:17:03. Street sanding specifications. The following are the street sanding specifications to be used in the Rapid City zone:

(1) A durability or hardness as defined in Mohs scale of greater than 6 for 70 percent of the material applied to the streets for deicing or skid control;

(2) No more than 3 percent of the total particle material content by weight may pass through a No. 200 sieve as described in ASTM C136-93, "Standard Test Method for Sieve Analysis of Fine and Course Aggregates," November 1993.

For street sanding material, these criteria only apply to the material before the addition of salts or chemicals. Material of a lesser hardness may be used on inclined or curved roads for safety purposes or where it can be demonstrated that a material can provide at least a 25 percent reduction in air pollutants.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-15, 34A-1-19, 34A-1-38.

References:

Page 49 and 50, **Physical Geology the Structure and Processes of the Earth, 1982**, B. Clark Burchfiel, et al, Charles E. Merrill Publishing Company. Copies may be obtained from the Department of Environment and Natural Resources free of charge.

Standard Test Method for Sieve Analysis of Fine and Course Aggregates, designation C 136-93, 4 pages, American Society for Testing and Materials, November 1993. Copies are available from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. Cost: \$15.

74:36:17:04. Street sanding and deicing plan. Any state, county, or municipal entity or their contractor with a street sanding or deicing operation in the Rapid City zone shall submit a plan to the department on April 15, 1996, and every three years following that date. The department shall approve or disapprove the plan within 60 days after receiving it, unless the department requests further information. The entity has 20 days to reply to a request for further information. The day the department receives the requested information initiates a new 60-day approval or disapproval period. The plan must include the following:

- (1) A description of the reasonable available control technologies in § 74:36:17:02 that the entity intends to use;
- (2) A description of how the requirements in § 74:36:17:03 will be attained;
- (3) A description of the test methods used in determining attainment with § 74:36:17:03;
- (4) An emissions inventory of the streets in the Rapid City zone;
- (5) A map identifying street cleaning areas, frequency of cleaning, priorities, and the type of street cleaning device used in each area.

If elements of the approved plan change during the three year period, the entity shall submit the modifications to the department for approval. The procedure for approval or disapproval of the modifications is the same as the procedure for the original plan.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-12, 34A-1-15, 34A-1-38.

74:36:17:05. Street sanding and sweeping recordkeeping. Operators of street sanding and sweeping equipment working in the Rapid City zone shall maintain records to document the street sanding and sweeping operations. These records shall be maintained for at least two years. These records shall contain the following documentation:

- (1) Street sanding:
 - (a) Date;
 - (b) Sanding route and area;
 - (c) Street conditions;
 - (d) Type and amount of sanding material used; and
 - (e) Miles driven;

(2) Street sweeping:

- (a) Date;
- (b) Area cleaned; and
- (c) Type of vehicle used.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-12, 34A-1-15, 34A-1-38.

74:36:17:06. Inspection authority. The secretary may enter the storage site of any user of street sanding material covered by this chapter for the purpose of obtaining samples of materials, inspecting records, or conducting any inspection authorized under SDCL chapter 34A-1.

Source: 22 SDR 104, effective February 11, 1996.

General Authority: SDCL 34A-1-6, 34A-1-15.

Law Implemented: SDCL 34A-1-6, 34A-1-13, 34A-1-15, 34A-1-38, 34A-1-41.

CHAPTER 74:36:18

REGULATIONS FOR STATE FACILITIES IN THE RAPID CITY AREA

Section

74:36:18:01	Definitions.
74:36:18:02	Applicability.
74:36:18:03	Permit required.
74:36:18:04	Time period for permits and renewals.
74:36:18:05	Required contents of a complete application for a permit.
74:36:18:06	Contents of permit.
74:36:18:07	Permit expiration.
74:36:18:08	Renewal of permit.
74:36:18:09	Reasonably available control technology required.
74:36:18:10	Visible emissions limit for construction and continuous operation activities.
74:36:18:11	Exception to visible emission limit.
74:36:18:12	Notice of operating noncompliance -- Contents.

74:36:18:01. Definitions. Unless otherwise specified, the terms used in this chapter mean:

(1) "Construction activity," any temporary activity at a state facility, which involves the removal or alteration of the natural or pre-existing cover of one acre or more of land. One acre of surface area is based on a cumulative area of anticipated disturbance to be completed for the entire project;

(2) "Continuous operation activity," the following ongoing activities at a state facility that may cause fugitive emissions of particulate to be released into the ambient air:

(a) Unpaved parking lots and storage lots one acre or more in size;

- (b) Paved parking lots to which deicing and traction materials are applied during adverse weather;
- (c) Storage piles and activities associated with handling of the stock pile material;
- (d) The applying of deicing and traction materials on and cleaning of streets, roads, and highways; and
- (e) Any other ongoing activity as determined by the secretary that may cause such fugitive emissions;

(3) "Reasonably available control technology," a control technology for fugitive emissions of particulate determined on a case-by-case basis by the secretary to meet the requirements of this chapter, taking into account energy, the environment, economic impacts, and other costs;

(4) "Rapid City air quality control zone," a 10-mile by 14-mile area within the following boundaries:

- (a) Commencing at the northwest corner of Section 15, Township 2 north, Range 6 east;
- (b) East to the northeast corner of Section 14, Township 2 north, Range 8 east;
- (c) South to the southeast corner of Section 35, Township 1 north, Range 8 east;
- (d) West to the southwest corner of Section 34, Township 1 north, Range 6 east; and
- (e) North to the point of beginning;

(5) "State facility," any state agency, state-owned or state-leased property, or property subject to a temporary state easement in the Rapid City air quality control zone; and

(6) "State contractor," any person under contract to provide services to a state facility including any person under contract to provide construction or continuous operation activities on state highways or the state interstate system within the Rapid city air quality control zone.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:18:02. Applicability. The requirements of this chapter apply to state facilities and state contractors that conduct a construction activity or continuous operation activity in the Rapid City air quality control zone.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6, 34A-1-11, 34A-1-18, 34A-1-19, 34A-1-21, 34A-1-38.

74:36:18:03. Permit required. Beginning on August 1, 2002, no state facility or state contractor may engage in any construction activity or continuous operation activity within the Rapid City air quality control zone which may cause fugitive emissions of particulate to be released into the ambient air without first obtaining a permit issued by the board or the secretary. The secretary may extend the August 1, 2002, deadline for 60 days if circumstances warrant an extension.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

Note: The procedural requirements for obtaining a construction activity or continuous operation activity permit under this chapter will be the same as the procedural requirements for a minor source, such as a timely and complete application, completeness review, public participation, and department recommendation, as outlined in §§ 74:36:04:06 and 74:36:04:08 to 74:36:04:14, inclusive.

74:36:18:04. Time period for permits and renewals. A construction activity or continuous operation activity permit is issued for a period up to five years and all subsequent permits are for periods of five years.

Source: 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:18:05. Required contents of a complete application for a permit. An application for a construction activity and continuous operation activity permit shall contain the following information to be considered complete:

- (1) General company information, including the company name and address, the owner's name and agent, and the plant site manager or contact;
- (2) Legal description and location of the construction or continuous operation activity, including a site map;
- (3) Description of the proposed construction or continuous operation activity, including nature and description of equipment used;
- (4) Description of the reasonably available control technology used to control the fugitive emissions; and
- (5) For construction activities, the proposed date for commencement and termination of the construction activity.

Source: 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:18:06. Contents of permit. The construction activity and continuous operation activity permit shall include the following:

- (1) The signature of either the secretary or the chairman;
- (2) The name of the person, company, political subdivision, agency, or institution granted a permit;
- (3) The type of operation;
- (4) The mailing address;
- (5) The date the permit was granted and on which it will expire;
- (6) A permit number;
- (7) The name of a designated person or officer responsible for the permitted activity;
- (8) A statement granting a permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the Act;
- (9) Emission limits and standards necessary to assure compliance with applicable requirements of the Clean Air Act;
- (10) Record keeping and reporting requirements;

(11) A severability clause to ensure the continued validity of the various permit requirements if any portion of the permit are challenged; and

(12) Provisions stating the following:

(a) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action, permit termination, revocation or modification, or for denial of a permit renewal application;

(b) The permit may be modified, revoked, or terminated for cause;

(c) The permit does not convey any property rights of any sort or any exclusive privilege;
and

(d) The permittee shall provide any information requested in writing by the secretary to determine whether cause exists for modifying, revoking, or terminating the permit or to determine compliance.

Source: 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:18:07. Permit expiration. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted to the secretary.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:18:08. Renewal of permit. Permits being renewed are subject to the same procedural requirements in §§ 74:36:04:06 and 74:36:04:08 to 74:36:04:14, inclusive, as the original permit issuance.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:18:09. Reasonably available control technology required. The owner or operator of a state facility or state contractor shall install and/or implement reasonably available control technology to prevent fugitive emissions of particulate from exceeding the visible emission limit specified in § 74:36:18:10.

Source: 28 SDR 178, effective July 1, 2002.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 1-26-20, 34A-1-53.

74:36:18:10. Visible emission limit for construction and continuous operation activities. The owner or operator of a state facility or state contractor may not discharge into the ambient air from a fugitive source an air pollutant of a density equal to or greater than that designated as 20 percent opacity for a series of two minute averages with a minimum of a total of

six minutes of readings. The Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018) shall be used to determine the opacity.

Source: 28 SDR 178, effective July 1, 2002; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-47, 34A-1-49.

74:36:18:11. Exception to visible emission limit. The provisions of § 74:36:18:10 do not apply if all three of the following meteorological conditions exist:

- (1) Five consecutive days of 0.02 inches or less of precipitation each day excluding dry snow;
- (2) Forecasted peak wind gusts greater than 40 miles per hour; and
- (3) Forecasted average hourly wind speed greater than 20 miles per hour.

Source: 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-19.

Law Implemented: SDCL 34A-1-12, 34A-1-19.

74:36:18:12. Notice of operating noncompliance -- Contents. If the secretary determines that the operation of a source is not in compliance with this article, the Clean Air Act, or permit conditions, the secretary may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based.

Source: 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 34A-1-21.

CHAPTER 74:36:20

CONSTRUCTION PERMITS FOR NEW SOURCES OR MODIFICATIONS

Section

- 74:36:20:01 Applicability.
- 74:36:20:02 Construction permit required.
- 74:36:20:02.01 Initiating construction prior to permit issuance.
- 74:36:20:03 Construction permit exemption.
- 74:36:20:04 Emission unit exemptions.
- 74:36:20:05 Standard for issuance of construction permit.
- 74:36:20:05.01 Procedures for an insignificant increase in allowable emissions.
- 74:36:20:06 Timely and complete application for a construction permit required.

74:36:20:07	Required contents of complete application for a construction permit.
74:36:20:08	Applicant required to supplement or correct application.
74:36:20:09	Permit application -- Completeness review.
74:36:20:10	Time period for department's recommendation.
74:36:20:11	Public participation in permitting process.
74:36:20:12	Public review of department's draft permit.
74:36:20:13	Final permit decision -- Notice to interested persons.
74:36:20:14	Right to petition for contested case hearing.
74:36:20:15	Contents of construction permit.
74:36:20:16	Administrative permit amendment.
74:36:20:17	Procedures for administrative permit amendments.
74:36:20:18	Reopening construction permit for cause.
74:36:20:19	Procedures to reopen construction permit.
74:36:20:20	Construction permit does not exempt from other requirements.
74:36:20:21	Expiration of a construction permit.
74:36:20:22	Notice of constructing or operating noncompliance -- Contents.
74:36:20:23	Petition for contested case or alleged violation.
74:36:20:24	Circumvention of emissions not allowed.

74:36:20:01. Applicability. The requirements of this chapter apply to the construction of all new sources or modifications to existing sources.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:02. Construction permit required. A person may not construct, install, modify, or operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment that prevents or controls the emission of air pollutants into the ambient air until a construction permit has been issued by the board or the secretary, except as specified in § 74:36:20:02.01.

Source: 36 SDR 207, effective June 28, 2010; 37 SDR 182, effective April 20, 2011; 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:02.01. Initiating construction prior to permit issuance. The owner or operator of a new source or modification to an existing source may only install concrete foundations, below-ground plumbing, ductwork, associated infrastructure and excavation work, or any combination of these activities prior to issuance of the construction permit by the department if the owner or operator meets the following requirements:

(1) The owner or operator has submitted a complete application for a construction permit to the department in accordance with § 74:36:20:06 and received a completeness determination from the department in accordance with § 74:36:20:09;

(2) The owner or operator has submitted a notification to the department of its intentions to initiate construction prior to issuance of the construction permit five working days before initiating construction;

(3) The new source or modification to an existing source is not subject to chapter 74:36:09 or 74:36:10. The provisions in chapter 74:36:09 or 74:36:10 remain applicable until the new source or modification to an existing source legally obtains a construction permit with federally enforceable conditions which limit the sources potential to emit below the applicable thresholds in chapter 74:36:09 or 74:36:10;

(4) The new source or modification to an existing source is not subject to § 74:36:08:03.01. The provisions in § 74:36:08:03.01 remain applicable until the new source or modification to an existing source legally obtains a construction permit with federally enforceable conditions which limit the sources potential to emit below the applicable thresholds in § 74:36:08:03.01;

(5) The owner or operator must assume any liability for construction conducted on a source before the permit is issued;

(6) The owner or operator must cease construction if the department's evaluation demonstrates the construction of the new source or modification to the existing source will interfere with the attainment or maintenance of a national ambient air quality standard or increment.

Source: 37 SDR 182, effective April 20, 2011; 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:03. Construction permit exemption. The following new sources or modifications to an existing source are exempt from obtaining a construction permit:

(1) A new source or modification to an existing source meeting the requirements of chapter 74:36:09;

(2) A new source or modification to an existing source meeting the requirements of chapter 74:36:10;

(3) A new source or modification to an existing source authorized under a general permit; or

(4) A source that meets the exemption requirements of §§ 74:36:04:02.01 and 74:36:05:04.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:04. Emission unit exemptions. The following emission units are exempt from inclusion in a construction permit unless the source has requested federally enforceable permit conditions related to the emission unit to avoid needing a Part 70 operating permit, PSD preconstruction permit, or NSR preconstruction permit or the emission unit is applicable to a standard in chapter 74:36:07 or 74:36:08:

(1) One or more incinerators of less than 100 pounds per hour combined burning capacity that combust municipal or household waste;

(2) A mobile internal combustion engine, including those in autos, trucks, tractors, airplanes, locomotives, and boats;

(3) Laboratory equipment used exclusively for chemical or physical analysis;

(4) A unit that has a heat input capability of not more than 3,500,000 Btus per hour, except for units fueled with wood or coal;

(5) An air conditioning or ventilating system not designed to remove air pollutants from equipment;

(6) Routine housekeeping or plant upkeep activities such as painting buildings, retarring roofs, or paving parking lots;

(7) A unit that has the potential to emit two tons or less per year of any criteria pollutant before the application of control equipment. However, the criteria pollutant emissions from the unit must be included in determining whether the source is required to obtain a construction permit; and

(8) A unit that has the potential to emit two tons or less per year of any hazardous air pollutant before the application of control equipment. However, the hazardous air pollutant emissions from the unit must be included in determining whether the source is required to obtain a construction permit.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:05. Standard for issuance of construction permit. A construction permit for a new source or modification to an existing source may be issued only if it has been shown that the operation of the new source or modification to an existing source will not prevent or interfere with the attainment or maintenance of an applicable national ambient air quality standard. If air pollution dispersion modeling is required, the modeling shall be performed in accordance with the air quality modeling guidance in 40 C.F.R. Part 51, Appendix W (July 1, 2018) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2018). Each new source or modification to an existing source must comply with emission limits and other requirements of the act and the Clean Air Act. The construction permit must include reasonable conditions, including adherence to plans and specifications, to ensure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6, 34A-1-19, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:05.01. Procedures for an insignificant increase in allowable emissions. The department shall take the following final action on the proposed insignificant increase in allowable emissions within 90 days after receipt of a complete application for an insignificant increase in allowable emissions:

- (1) Issue the construction permit as proposed;
- (2) Deny the application for a construction permit; or
- (3) Determine the application should be processed as a construction permit following the procedural requirements in §§ 74:36:20:06 to 74:36:20:10, inclusive.

The secretary shall issue the construction permit for an insignificant increase in allowable emissions without the procedural requirements applicable to obtaining a construction permit.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:06. Timely and complete application for a construction permit required. A person who constructs a new source or modification to an existing source required to have a construction permit shall submit a complete application to the department at least 180 days before the estimated date of commencing construction of the new source or modification to an existing source. An application is complete if it meets the requirements in § 74:36:20:07.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:07. Required contents of complete application for a construction permit. An application for a construction permit for a new source or modification must include the following information to be considered a complete application:

- (1) The following general company information:
 - (a) The company name and address or the plant name and address if different from the company name;
 - (b) The owner's name and agent; and
 - (c) The plant site manager or contact;
- (2) A description of the plant and its processes and products;
- (3) The following information on emissions:
 - (a) Identification and description of all emission units;
 - (b) Fuels, fuel use, raw materials, and production rates;
 - (c) Identification and description of air pollution control equipment;
 - (d) Limitations on source operation affecting emissions or any work practice standards, if applicable, for all regulated air pollutants;
 - (e) Other information required by any applicable requirements, including information related to stack height limits, such as the location of emission units, flow rates, building dimensions, and stack parameters, including height, diameter, and plume temperature, for all pollutants regulated at the source;
- (4) If available, a copy of any prepared plans and the specifications of any equipment or other facilities that may affect the source, including pollution control devices;
- (5) A signed and notarized certification of applicant form;

- (6) The results of any air dispersion modeling required by the department;
- (7) The results of any stack performance testing required by the department; and
- (8) Any other information requested by the department that is relevant to determining compliance with the act or the Clean Air Act.

The application must be signed by the responsible official or designated representative.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-12, 34A-1-21.

74:36:20:08. Applicant required to supplement or correct application. If the applicant is aware that the application is incomplete or that any relevant facts or information contained in an application are incorrect, the applicant shall submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable after the application is filed but before the release of the draft permit.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:09. Permit application -- Completeness review. The department shall conduct a completeness review of each permit application received, as follows:

(1) Within 30 days after submission of an application for a construction permit, the department shall notify the applicant in writing whether or not the application is complete or incomplete. If the department does not notify the applicant that the application is incomplete within 30 days after receipt of the application, the application is considered complete. The department may at any time during the processing of the application request, in writing, additional information necessary to evaluate or take final action on the application;

(2) If the application is incomplete or additional information is necessary to evaluate the application, the department shall identify the items required to complete the application. The applicant has 20 working days after receipt of an incomplete notification or request for additional information to submit the information, unless an extension beyond the 20 working days is approved by the department; and

(3) The department shall determine the adequacy of the applicant's response to each incomplete item within 15 days after receipt of the response and shall notify the applicant in writing if the application is or is not complete.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:10. Time period for department's recommendation. The department shall recommend issuance or denial of a construction permit within 180 days after the submission of a complete application and all other additional information necessary for the department to make an informed decision. A recommendation to issue a permit shall include a draft permit with

appropriate conditions to ensure compliance with the act or the Clean Air Act. Failure of the department to act on an application entitles the applicant to petition for and obtain a contested case review of the application without waiting for a department recommendation. The petition must conform to the requirements of article 74:09.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:11. Public participation in permitting process. The department shall mail a copy of the draft permit to the applicant. The department shall publish a public notice of the draft permit once in a legal newspaper in the county where the source is located. The notice must include a brief statement describing the source and where it is located; the department's recommendation and the reasons for it; the activity or activities involved in the permit action; a statement that a person may submit comments or contest the draft permit within 30 days after the publication of the notice; a description of the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09; and a statement describing where copies of the draft permit or other information may be obtained. The department shall provide to the interested parties a 30-day notice of any hearing to contest a draft permit.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 34A-1-21.

74:36:20:12. Public review of department's draft permit. During the public comment period, any interested person may submit written comments on the draft permit or request a contested case hearing. All comments shall be considered in making a final permit decision on the draft permit as provided in § 74:36:20:13. A request for a contested case hearing must be in writing and prepared and filed in accordance with article 74:09. The department is not required to accept recommendations or comments that are not based on applicable requirements of this article or the requirements of the Clean Air Act.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:13. Final permit decision -- Notice to interested persons. The department shall make its final permit decision within 30 days of the end of the public comment period on a draft permit. The department shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final permit decision. The notice shall include reference to the procedures for contesting the final permit decision and requesting a hearing in accordance with article 74:09. For the purpose of this section, the final permit decision means proposing a permit or denying a permit.

The final permit shall be issued within 30 days of notifying the applicant and each person that submitted written comments or requested notification of the final permit decision except under the following conditions:

- (1) A later effective date is specified in the final permit decision;
- (2) A contested case hearing is requested; or

(3) No comments or request for changes in the draft permit were received during the public comment period on the draft permit. In this case, the draft permit automatically becomes the final permit decision and the final permit is issued at the end of the public comment period.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21.

74:36:20:14. Right to petition for contested case hearing. The applicant or interested person may petition the board and obtain a contested case hearing to dispute the department's draft permit. Any other person may petition to intervene and request a hearing if the person has an interest affected by the department's draft permit. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after publication of the notice required by § 74:36:20:11.

The applicant or an interested person that comments on the draft permit may petition the board for and obtain a contested case hearing to dispute the department's final permit decision. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after receiving the department's final permit decision.

If the draft permit or the final permit decision is contested, the department shall present the draft permit or final permit decision to the board for action in accordance with article 74:09.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21.

74:36:20:15. Contents of construction permit. A construction permit shall include the following:

- (1) The signature of either the secretary or the chairman;
- (2) The name of the person, company, political subdivision, agency, or institution granted a permit;
- (3) The type of operation;
- (4) The facility and mailing address;
- (5) The date the construction permit was granted;
- (6) A number for administrative reference;
- (7) The timeline for submitting a timely and complete application for a minor source operating permit or Part 70 source operating permit;
- (8) A statement granting a construction permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the act and the Clean Air Act;
- (9) Emission limits and standards, including operational requirements and limits for all regulated emission units, necessary to ensure compliance with applicable requirements of the act and the Clean Air Act;
- (10) Monitoring, recordkeeping, and reporting requirements necessary to determine compliance with the construction permit;
- (11) A severability clause to ensure the continued validity of the various permit requirements if any portions of the permit are challenged; and
- (12) Provisions stating the following:

(a) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action;

(b) The construction permit does not convey any property rights of any sort or any exclusive privilege; and

(c) The permittee shall provide any information, including records, requested in writing by the department to determine compliance.

Source: 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:16. Administrative permit amendment. An administrative permit amendment may be issued for a revision to an operating permit meeting the requirements of § 74:36:01:03. An application for an administrative permit amendment shall contain a description of the change and documentation supporting the applicant's claim that the revision qualifies as an administrative permit amendment.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:17. Procedures for administrative permit amendments. The source may implement a proposed revision that is considered an administrative permit amendment immediately upon notifying the department. The department shall determine whether an administrative permit amendment is applicable to the proposed revision within 15 days of receiving a request for a permit revision. The department shall issue administrative permit amendments without the procedural requirements applicable to obtaining a construction permit.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:18. Reopening construction permit for cause. The department may reopen a construction permit for further review if the department determines that the permit contains a material mistake in establishing the emissions standards or limits or other requirements of the construction permit or the department determines that the construction permit must be revised to ensure compliance with the applicable requirements of this article and the Clean Air Act.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:19. Procedures to reopen construction permit. The department shall notify the source at least 30 days before reopening a construction permit. The department may reopen a permit in a shorter time in an emergency. The procedures to reopen a construction permit shall follow the procedural requirements to issue a construction permit and shall affect only those parts of the permit for which cause to reopen exists.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:20. Construction permit does not exempt from other requirements. The issuance of a construction permit for a new source or modification to an existing source does not exempt the new source or modification to an existing source from obtaining the applicable operating permit pursuant to chapter 74:36:04 or 74:36:05 or from the obligation to comply with the applicable emission limitations or requirements of the Clean Air Act.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:21. Expiration of a construction permit. A construction permit expires if the construction of the new source or modification to an existing source has not commenced within 18 months after the effective date of the construction permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within ten years of the effective date. If a construction permit expires, the applicant's authority to commence construction or complete construction of the new source or modification to an existing source is terminated.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:20:22. Notice of constructing or operating noncompliance -- Contents. If the department determines that the construction or operation of a source is not in compliance with this article, the Clean Air act, or permit conditions, the department may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based. The secretary, with the concurrence of the alleged violator, may settle an issue of noncompliance by entering into a compliance agreement with the source that specifies the date for final compliance of the source and any penalties under SDCL 34A-1-39. If a compliance agreement is not negotiated, the department may petition the chairman of the board for a contested case hearing or may file a civil penalty or injunctive action in circuit court.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-20, 34A-1-53.

74:36:20:23. Petition for contested case on alleged violation. In accordance with § 74:36:20:22, the department may file a petition containing the information required in article 74:09 with the chairman to request an order directing corrective action, to request that an enforcement hearing be scheduled pursuant to the provisions of chapter 74:09:01, or to request that the construction permit be suspended or revoked for noncompliance.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-47, 34A-1-49.

74:36:20:24. Circumvention of emissions not allowed. A person may not install or cause the installation or use of a device or a means that conceals or dilutes an emission of air pollutants

that would otherwise violate this article or the Clean Air Act. This includes operating a source, unit, or control device that emits pollutants into the ambient air from an opening other than the stack, vent, or equivalent opening from which they were designed to be emitted.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

that would otherwise violate this article or the Clean Air Act. This includes operating a source, unit, or control device that emits pollutants into the ambient air from an opening other than the stack, vent, or equivalent opening from which they were designed to be emitted.

Source: 36 SDR 207, effective June 28, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

CHAPTER 74:36:21

REGIONAL HAZE PROGRAM

Section

74:36:21:01	Applicability.
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74:36:21:10	Permit to construct.
74:36:21:11	Permit required for BART determination.
74:36:21:12	Federal land manager notification and review.

74:36:21:01. Applicability. The provisions of this chapter apply to the owner or operator of a new major source, modification to a major source, and a BART-eligible source. The provisions of this chapter do not apply to a major source or major modification to an existing source applicable to chapters 74:36:09 and 74:36:10.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:02. Definitions. As used in this chapter:

- (1) "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I federal area;
- (2) "BART" means best available retrofit technology;

(3) "Best available retrofit technology" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility.;

(4) "BART-eligible source" means an existing stationary facility;

(5) "Coal-fired power plant" means any person, corporation, limited liability company, association, company, partnership, political subdivision, municipality, rural electric cooperative, consumers power district, or any group or combination acting as a unit, owning or holding under lease, or otherwise real property used, or intended for use, for the conversion of coal into electric power;

(6) "Contribute to adverse impact on visibility" means a change in visibility impairment in a mandatory Class I federal area of five-tenths deciviews or more, based on a 24-hour average, above the average natural visibility baseline.;

(7) "Major source" means as defined in § 74:36:01:08(2) and (3);

(8) "Mandatory Class I federal area" means any area identified in 40 C.F.R. § 81, Subpart 1, 2016; D (July 1, 2018)

(9) "Visibility impairment" means any human perceptible change in visibility such as light extinction, visual range, contrast, coloration, from that which would have existed under natural conditions;

(10) "30-day rolling average" means an amount expressed as pounds per million Btus and pounds per hour averaged over 30 operating days.; and

(11) "Operating day" means a 24-hour period between midnight and the following midnight during which any fuel is combusted at any time in the period, even if fuel is not combusted during the entire 24-hour period.

Source: 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:03. Existing stationary facility defined. An existing stationary facility is any of the following stationary sources of air pollutants, including any reconstructed source that was not in operation before August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted for:

- (1) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (2) Coal cleaning plants (thermal dryers);
- (3) Kraft pulp mills;
- (4) Portland cement plants;
- (5) Primary zinc smelters;
- (6) Iron and steel mill plants;
- (7) Primary aluminum ore reduction plants;
- (8) Primary copper smelters;
- (9) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (10) Hydrofluoric, sulfuric, and nitric acid plants;
- (11) Petroleum refineries;
- (12) Lime plants;
- (13) Phosphate rock processing plants;
- (14) Coke oven batteries;
- (15) Sulfur recovery plants;
- (16) Carbon black plants (furnace process);
- (17) Primary lead smelters;
- (18) Fuel conversion plants;
- (19) Sintering plants;
- (20) Secondary metal production facilities;
- (21) Chemical process plants;
- (22) Fossil-fuel boilers of more than 250 million British thermal units per hour heat input;
- (23) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels;
- (24) Taconite ore processing facilities;
- (25) Glass fiber processing plants; and
- (26) Charcoal production facilities.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:04. Visibility impact analysis. An air quality construction permit for a new major source or modification to a major source shall demonstrate to the department that the potential to emit from the new major source or modification to a major source may be issued only if it has been shown that the operation of the new major source or modification to a major source will not contribute to adverse impact on visibility in any mandatory Class I federal area. Adverse impact on visibility shall be based on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with times of visitor use of a mandatory Class I federal area and the frequency and timing of natural conditions that reduce visibility. If air pollution dispersion modeling is required, the modeling shall be performed in accordance with the air quality modeling guidance in 40 C.F.R. Part 51, Appendix W (July 1, 2018) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2018). A source contributes to adverse impact on visibility if the source exceeds the threshold of the 98th percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews.

Source: 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:05. BART determination. The owner or operator of a BART-eligible source that emits any air pollutant which may reasonably be anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area shall submit a BART determination. The BART determination shall follow the procedures outlined in 40 C.F.R. § 51, Subpart Y (July 1, 2018) and must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source. In this analysis, the BART determination must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonable be anticipated to result from the use of such technology. The BART determination must be submitted within nine months after being notified by the department that the existing stationary source is reasonably anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area.

Source: 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:06. BART determination for a BART-eligible coal-fired power plant. The owner or operator of a BART-eligible coal-fired power plant may not cause or permit emissions of the following regulated air pollutant in excess of the following amounts:

(1) PM10 emissions in excess of 67.3 pounds per hour, which includes periods of startup and shutdown;

(2) PM10 emissions in excess of 0.012 pounds per million Btus, which includes periods of startup and shutdown;

(3) Sulfur dioxide emissions in excess of 505 pounds per hour, which includes periods of startup, shutdown, and malfunction;

(4) Sulfur dioxide emissions in excess of 0.09 pounds per million Btus, which includes periods of startup, shutdown, and malfunction;

(5) Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup, shutdown, and malfunction; and

(6) Nitrogen oxide emissions in excess of 0.10 pounds per million Btus, which includes periods of startup, shutdown, and malfunction.

Compliance with the PM 10 emission limits shall be based on an annual stack performance test using the performance testing methods in § 74:36:11:01 and using the average of three 1-hour test runs. Compliance with the sulfur dioxide and nitrogen oxide emission limits shall be based on using continuous emission monitoring systems and a 30-day rolling average.

Source: 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:07. Installation of controls based on visibility impact analysis or BART determination. The owner or operator of a new major source, modification to a major source, or a BART-eligible source that emits any air pollutant which may reasonably be anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area shall install, operate, and maintain the controls established in a visibility impact analysis or BART determination. The owner or operator of a new major source or modification to a major source must install and operate the controls established in a visibility impact analysis at initial startup. The owner or operator of a BART-eligible source required to install BART must install, operate, and demonstrate compliance with BART as expeditiously as practicable, but no later than five years from EPA's approval of the state implementation plan for regional haze.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:08. Operation and maintenance of controls. The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination shall establish written procedures to ensure the control equipment is properly operated and maintained. The written procedures shall include, at a minimum, the following:

- (1) A maintenance schedule for each control device that is consistent with the manufacturer's instructions and recommendations for routine and long-term maintenance;
- (2) Procedures for the proper operation and maintenance of each control device; and
- (3) Parameters to be monitored to determine each control device is being operated properly.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:09. Monitoring, recordkeeping, and reporting. The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination

shall conduct periodic monitoring, recordkeeping, and reporting. All sulfur dioxide and nitrogen oxides emissions from the BART-eligible source shall be routed to the main stack of a BART-eligible source. The owner or operator of a BART-eligible source must install, certify, maintain, calibrate, and operate a continuous emission monitoring system for sulfur dioxide and nitrogen oxide in accordance with 40 C.F.R. Part 75 (July 1, 2018), except the recordkeeping and reporting requirements for the continuous emission monitoring systems must be in accordance with 40 C.F.R. § 60.7 (July 1, 2018). Monitoring and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source must consist of at least the following:

- (1) All emissions monitoring and analysis procedures, alternative approved methods, or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;
- (2) As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;
- (3) Documentation of the following:
 - (a) The date, place, and time of sampling or measurements;
 - (b) The date or dates analyses were performed;
 - (c) The company or entity that performed the analyses;
 - (d) The analytical techniques or methods used;
 - (e) The results of such analyses; and
 - (f) The operating conditions as existing at the time of sampling or measurement;
- (4) Recordkeeping and reporting requirements that comply with the following:
 - (a) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and
 - (b) Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions. The probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and
- (5) Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

Source: 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:10. Permit to construct. The owner or operator subject to this chapter may be issued a permit to construct in accordance with chapter 74:36:20 if the department determines that the new major source or modification to a major source does not contribute to adverse impact on visibility at a mandatory Class I federal area.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:11. Permit required for BART determination. The owner or operator of a BART-eligible source shall submit an application in accordance with chapter 74:36:20 to include the controls, emission limits, monitoring, recordkeeping, and reporting requirements identified in the BART determination and approved by the department.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:12. Federal land manager notification and review. The department shall provide written notice to the federal land manager of a BART determination or any permit application for a new major source or modification to a major source if the emissions from which may contribute to adverse impact on visibility at a mandatory Class I federal area, except for an application submitted in accordance with chapter 74:36:09 or 74:36:10. A notification of a BART determination shall include a copy of the BART determination and must be submitted within 30 days of receipt of a complete BART determination. The department shall consider an analysis performed by the federal land manager submitted within 60 days of the federal land manager being notified of a BART determination or by the end of the public participation process, whichever is later. A permit application for a new major source or modification to a major source shall include a copy of the permit application and visibility impact analysis. The department shall consider an analysis performed by the federal land manager submitted within 30 days of the federal land manager being notified of a visibility impact analysis or by the end of the public participation process, whichever is later. The department shall follow the procedures outlined in chapter 74:36:09 or 74:36:10 for an application submitted in accordance with chapter 74:36:09 or 74:36:10.

Source: 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:13. Calculate a 30-day rolling average. The following procedures shall be used to calculate a 30-day rolling average:

(a) Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(b) Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(c) Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(d) For pounds per million Btus, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total heat input during the 30-day operating days;

(e) For pounds per hour, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total hours operated during the 30-day operating days.

A new 30-day rolling average shall be calculated for each new operating day. Each 30-day rolling average shall represent all emissions, including emissions that occur during periods of startup, shut down, and malfunction; and

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

1.1 Applicability

The provisions of this regulation shall apply to all persons who emit or cause to be emitted fugitive dust as defined in Section 1.2 below.

1.2 Definitions

1.2.1 “Fugitive dust” is particulate matter which escapes and becomes airborne from unenclosed operations or activities or which is emitted into the atmosphere without passing or being conducted through a flue pipe, stack, or other structure designed for the purpose of emitting air pollutants into the atmosphere.

1.2.2 “Reasonably available control technology (RACT)” is the extent of emission control technology determined on a case by case analysis to be economically and technologically reasonable requirements for emission control.

1.3 Standard of Compliance

1.3.1 No person shall emit or cause to be emitted fugitive dust from any source without applying reasonably available control technology (RACT) to that source or in such quantities that ambient air total suspended particulate concentration measurements taken violate National Ambient Air Quality Standards (NAAQS).

1.3.2 Total suspended particulate concentration measurements shall be in accord with standard methods specified by the U.S. Environmental Protection Agency, and at locations specified by the Air Quality Review Board as appropriate to the unique characteristics of the source.

1.3.3 Wind measurements shall be taken at locations and by methods specified by the Air Quality Review Board. Such methods shall specify that wind speeds during the sampling period not exceed 25 miles per hour.

1.4 Reasonably Available Control Technology Required

1.4.1 In order to comply with the provisions of Section 1.3 above, all persons who own, operate, or are otherwise responsible for a source of fugitive dust shall utilize reasonably available control technology to prevent such dust from becoming airborne. Such reasonably available control technology may include, but are not limited to, the following:

(a) For land clearing, excavating, grading, earthmoving, dredging, or demolition:

(1) wetting down, including prewatering

(2) stabilizing with chemicals

(3) applying dust palliatives

(4) disturbing a minimum topsoil per unit of time and reclaiming disturbed areas as quickly as possible

(5) restricting the speed of vehicles traversing the area

(b) For constructing, using, altering, or repairing private roads or parking facilities:

- (1) watering, paving, or chemically stabilizing routinely used haul roads
- (2) restricting the speed of vehicles
- (3) watering down or chemically stabilizing roadway shoulders
- (4) enclosing or covering open bodied trucks
- (5) switching from moving materials by vehicle to moving them by conveyance systems
- (6) covering, shielding, or enclosing the area
- (7) preventing and/or promptly removing the deposit of dirt and mud on paved roads
- (8) cleaning paved roads frequently
- (c) For crushing, screening, handling, conveying, or processing materials:
 - (1) installing hoods, fans, and exhaust systems to enclose and vent the processing of dusty materials
 - (2) covering conveyance systems
 - (3) enclosing aggregate storage piles, or reducing the amount of vehicular or aggregate movement on open storage piles
 - (4) moisturizing or chemically treating the material during processing
 - (5) sealing leaks or openings in process enclosures
- (d) For exposure of land or materials subject to erosion by wind:
 - (1) landscaping and replanting exposed areas with native vegetation
 - (2) installing wind screens or equivalent wind speed reduction devices
 - (3) stabilizing the land with chemicals
 - (4) physically stabilizing the land by covering with a nonerodible material such as a gravel
 - (5) enclosing aggregate storage piles

1.4.2 Where owner or operator of a source had undertaken reasonably available control technology applicable under Section 1.4.1 but is found to cause violations of the standard specified in Section 1.3, the latter Section shall constitute the prevailing standard, in which case further controls would be required.

1.5 Fugitive Dust Control Permits Required for Construction Activities, i.e., temporary operations

1.5.1 No person engaged in construction activities involving clearing and earthmoving on more than one acre of land shall initiate construction, after the date of enactment of this fugitive dust regulation, without first applying for and obtaining from the appropriate governing body, a construction permit.

1.5.2 Section 1.5.1 shall not apply to work performed under contract executed prior to the enactment of this regulation, provided that such work shall be complete prior to December, 31, 1981.

1.6 Compliance Plans and Schedules Required, i.e., continuous operations

1.6.1 No person shall conduct an operation in a manner to emit or cause to emit fugitive dust without first having obtained from the Air Quality Review Board an operating permit.

1.6.2 Any person who emits or causes to be emitted fugitive dust such that Sections 1.3 or 1.4 are violated shall be required to submit a compliance plan and schedule which demonstrates to the satisfaction of the Air Quality Review Board that said standards will be met within a period of time acceptable to the Air Quality Review Board, (demonstrating reasonable progress with compliance of the standards by December 31, 1981). Said compliance plans and schedules shall be submitted to the Air Quality Review Board following formal notification by the Air Quality Review Board that such plans and schedules are necessary. Said notification shall specify reasonable time in which such plans and schedules must be submitted.

1.6.3 Operations which were in existence at the time of adoption of this ordinance shall have ninety (90) days to submit compliance plans and schedules and the Air Quality Review Board shall act upon such plans as soon as possible.

Nothing in this section shall require that those existing operations restrict their operations until a final decision is made by the Air Quality Review Board.

1.6.4 New applications received after the effective date of this ordinance will be approved or denied by the Air Quality Review Board within ninety (90) days of the application.

1.6.5 Such compliance plans and schedules shall, at a minimum, include the following:

- (a) A description of the nature and scope of the operations and conditions which may cause a violation.
- (b) A description of those reasonably available control technologies active at the time of the plan submission, and the anticipated effect of such controls upon ambient particulate concentrations.
- (c) A description on those additional, more stringent, emission abatement techniques which will be used to obtain compliance.
- (d) The economic and technical reasonableness of the proposed emission abatement techniques, including such cost analyses and copies of engineering reports or studies sufficient to demonstrate to the Air Quality Review Board's satisfaction that the compliance program will result in compliance with the standards of this regulation.
- (e) An implementation schedule and final compliance date.

1.6.6 Where the Air Quality Review Board is satisfied that the compliance plan and schedule submitted in accord with this section meet the requirements specified, the Air Quality Review Board shall issue an order requiring the person submitting the compliance schedule to perform the acts stipulated.

1.6.7 Whenever the Air Quality Review Board finds that the specifications of its order are being violated, or that a person required to submit a compliance plan by Section 1.6 has not submitted such a plan or has submitted an inadequate plan, it shall serve notice of violation to the person responsible for the compliance plan in the manner provided in Section 1.7.

1.7 Enforcement Procedures

1.7.1 Whenever, on the basis of any information available, the Air Quality Review Board finds that any person is in violation of the provision of this regulation the Air Quality Review Board shall notify the person in violation and shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Air Quality Review Board determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with this regulation.

1.7.2 This Air Quality Review Board may issue an order to the person in violation requiring such person to comply with the requirements set forth in Sections 1.5 or 1.6 or the Air Quality Review Board may bring civil action in accordance with 1.7.4.

1.7.3 Any action under Section 1.7.2 shall not take effect until the person to whom action is initiated has had an opportunity, if requested by the person in violation, to confer with the Air Quality Review Board concerning this alleged violation.

1.7.4 The Air Quality Review Board may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person:

1. Fails or refuses to comply with the requirements of Sections 1.5 or 1.6.
2. Violates, fails, or refuses to comply with any order issued under Section 1.7.1.

1.8 Establishment of Administrative Mechanisms

1.8.1 The County shall establish an Office of Air Quality for the administration of this regulation. The Office of Air Quality shall be the administrative mechanism for the provisions of Sections 1.1 through 1.7 of this regulation.

1.8.2 To provide guidance to the County and the Administrator of the Office of Air Quality, the county commissioners shall appoint a seven (7) person Air Quality Review Board to serve at the pleasure of the county commission for the purpose of providing overall supervision to the Air Quality Office, to recommend policy to the county commission regarding clean air matters, and approve actions of the Air Quality Office in relationship to Sections 1.1 through 1.7 of this regulation.

1.8.3 The composition of the Air Quality Review Board shall be: Two individuals representing industry, one individual representing the engineering profession, one individual representing environmental concerns, one individual representing affected homeowners, one individual representing the business community, and one individual on an at large basis. Each member will serve for three years on a staggered term basis.

1.9 Separability

1.9.1 Each section and each provision or requirement of any section of this ordinance shall be considered separable, and the invalidity of any section, provision, or requirement, or any portion thereof, shall not affect the validity or enforceability of any other portion.