

ARTICLE 74:36

AIR POLLUTION CONTROL PROGRAM

Chapter

- 74:36:01 Definitions.
- 74:36:02 Ambient air quality.
- 74:36:03 Air quality episodes.
- 74:36:04 Operating permits for minor sources.
- 74:36:05 Operating permits for Part 70 sources.
- 74:36:06 Regulated air pollutant emissions.
- 74:36:07 New source performance standards.
- 74:36:08 National emission standards for hazardous air pollutants.
- 74:36:09 Prevention of significant deterioration.
- 74:36:10 New source review.
- 74:36:11 Performance testing.
- 74:36:12 Control of visible emissions.
- 74:36:13 Continuous emission monitoring systems.
- 74:36:14 Variances, Repealed.
- 74:36:15 Open burning, Transferred or Repealed.
- 74:36:16 Acid rain program.
- 74:36:17 Rapid City street sanding and deicing.

- 74:36:18 Regulations for state facilities in the Rapid City area.
- 74:36:19 Mercury budget trading program, [Repealed](#).
- [74:36:20 Construction permits for new sources or modifications](#)

CHAPTER 74:36:01

DEFINITIONS

Section

- 74:36:01:01 Definitions.
- 74:36:01:02 Repealed.
- 74:36:01:03 Administrative permit amendment defined.
- 74:36:01:04 Affected states defined.
- 74:36:01:05 Applicable requirements of [the](#) Clean Air Act defined.
- 74:36:01:06 Complete application defined.
- 74:36:01:07 Repealed.
- 74:36:01:08 Major source defined.
- 74:36:01:09 Categories of sources defined.
- 74:36:01:10 Modification defined.
- 74:36:01:11 National ambient air quality standard (NAAQS).
- 74:36:01:12 Potential to emit defined.

- 74:36:01:13 Process weight rate defined.
- 74:36:01:14 Repealed.
- 74:36:01:15 Regulated air pollutant defined.
- 74:36:01:16 Responsible official defined.
- 74:36:01:17 Repealed.
- 74:36:01:18 Municipal solid waste landfill defined.
- 74:36:01:19 Existing municipal solid waste landfill defined.
- 74:36:01:20 Physical change in or change in the method of operation.

[74:36:01:21 Commenced construction defined.](#)

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

- (1) "Act," chapter 34A-1 of the South Dakota Codified Laws;
- (2) "Acid rain permit," 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," 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," the administrator of the Environmental Protection Agency or the secretary ~~of the Department of Environment and Natural Resources~~ or their authorized representatives;

(5) "Affected source," a source that includes one or more affected units under Title IV of the Clean Air Act;

(6) "Affected unit," 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," one or a combination of the regulated air pollutants listed in § 74:36:0

(8) "Allowable emissions," 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 the following:

(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, 2005~~ [July 1, 2009](#));

(9) "Ambient air," that portion of the atmosphere external to buildings to which the general public has access;

(10) "ASTM," the American Society for Testing and Materials;

(11) "Board," the Board of Minerals and Environment;

(12) "Btu," British thermal unit;

(13) "CO," carbon monoxide;

(14) "Chairman," chairman of the board;

(15) "Clean Air Act," the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., as amended through November 15, 1990;

(16) "Clean Air Act Amendments," the amendments to the Clean Air Act enacted in Pub. L. No. 101-549, November 15, 1990;

(17) "Control equipment," a device which prevents or reduces emissions;

(18) "Criteria pollutant," 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," the South Dakota Department of Environment and Natural Resources;

(20) "Designated representative," 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," the version of a permit for which the department offers public participation or affected state review;

(22) "Emissions allowable under the permit," 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," the maximum amount of a pollutant legally permitted to be discharged from a single unit;

(24) "Emission unit" or "Unit," any part or activity of a stationary source which emits or has the potential to emit a regulated air pollutant ~~regulated under~~ or any pollutant listed under section 112(b) of the ~~act~~ Clean Air Act;

(25) "EPA," the Environmental Protection Agency;

(26) "Equivalent method," 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," a source that has an approved state-issued variance or permit;

(28) "Facility," 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," 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, 2005~~ July 1, 2009), requirements within the state implementation plan, and permit requirements established pursuant to this article or 40 C.F.R. § 51 Subpart I (~~July 1, 2005~~ July 1, 2009). The use of this term does not impede the department's authority under state law to enforce these limits and conditions;

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

~~(31) "Fixed capital cost," the capital needed to provide all depreciable components;~~

~~(32)~~ (31) "Fuel-burning unit," 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;

~~(33)~~ (32) "Fugitive emissions," those air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening;

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

~~(35)~~ (34) "Heat input," 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;

~~(36)~~ (35) "Incinerator," a furnace used to burn solid waste to reduce the volume of the waste by removing its combustible material;

~~(37)~~ (36) "Malfunction," 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;

~~(38)~~ (37) "Minor source," 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;

~~(39) "Municipal-type solid waste," as defined in 40 C.F.R. § 60.51a (July 1, 2005);~~

~~(40)~~ (38) "New source," a source that has not been constructed and does not possess a permit or an approved state-issued variance;

~~(41)~~ [\(39\)](#) "Nonattainment area," 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;

~~(42)~~ [\(40\)](#) "NSR," new source review;

~~(43)~~ [\(41\)](#) "Opacity," the degree to which emissions reduce the transmission of light and obscure the view of an object in the background;

~~(44)~~ [\(42\)](#) "Open burning," 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;

~~(45)~~ [\(43\)](#) "Operating permit," a written authorization issued by the board or the secretary for the ~~construction or~~ operation of a source;

~~(46)~~ [\(44\)](#) "Owner or operator," any person who owns, leases, operates, controls, or supervises a source;

~~(47)~~ [\(45\)](#) Repealed;

~~(48)~~ [\(46\)](#) "Part 70 operating permit," any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised;

~~(49)~~ [\(47\)](#) "Part 70 source," any source subject to § 74:36:05:03;

~~(50)~~ [\(48\)](#) "Particulate matter," a broad class of chemically and physically diverse substances that exist as discrete particles, liquid droplets, or solids over a wide range of sizes;

~~(51)~~ [\(49\)](#) "Permit modification," a ~~revision~~ [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;

~~(52)~~ [\(50\)](#) "Permit revision," a [revisions to a minor source operating permit or Part 70 operating permit to incorporate a](#) permit modification, administrative permit amendment, or minor permit amendment;

~~(53)~~ [\(51\)](#) "Person," 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;

~~(54)~~ [\(52\)](#) "PM10," particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by an applicable reference or equivalent method;

~~(55)~~ [\(53\)](#) "Proposed Part 70 operating permit," 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;

~~(56)~~ [\(54\)](#) "PSD," prevention of significant deterioration;

~~(57)~~ [\(55\)](#) "Repealed;

~~(58)~~ [\(56\)](#) "Salvage operation," an operation conducted in whole or in part for the reclaiming of product or material;

~~(59)~~ [\(57\)](#) "Secretary," the secretary of the South Dakota Department of Environment and Natural Resources or an authorized representative;

~~(60)~~ [\(58\)](#) "Shutdown," the cessation of operation of any control equipment, process equipment, or process for any purposes;

~~(61)~~ [\(59\)](#) "Smoke," 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;

~~(62)~~ (60) "Source," a facility that emits or may emit any air pollutant regulated under the Clean Air Act;

~~(63)~~ (61) "Start-up," the setting into operation of any control equipment, process equipment, or process for any purpose;

~~(64)~~ (62) "Title I," Title I of the Clean Air Act Amendments, provisions for attainment and maintenance of national ambient air quality standards;

~~(65) "Title II," Title II of the Clean Air Act Amendments, provisions relating to mobile sources;~~

~~(66) "Title III," Title III of the Clean Air Act Amendments, hazardous air pollutants;~~

~~(67)~~ (63) "Title IV," Title IV of the Clean Air Act Amendments, acid deposition control;

~~(68)~~ (64) "Title V," Title V of the Clean Air Act Amendments, permits;

~~(69)~~ (65) "Title VI," Title VI of the Clean Air Act Amendments, stratospheric ozone protection;

~~(70) "Title VII," Title VII of the Clean Air Act Amendments, provisions relating to enforcement;~~

~~(71) "Title VIII," Title VIII of the Clean Air Act Amendments, miscellaneous provisions;~~

~~(72) "Title IX," Title IX of the Clean Air Act Amendments, clean air research;~~

~~(73) "Title X," Title X of the Clean Air Act Amendments, disadvantaged business concerns;~~

~~(74) "Title XI," Title XI of the Clean Air Act Amendments, clean air employment transition assistance;~~

~~(75) "Unit" or "emission unit," any portable or stationary equipment or activity that emits or has the potential to emit a pollutant regulated under the Act;~~

~~(76)~~ (66) "Variance," a written authorization issued by the board to operate a minor source in an attainment area that is not in compliance with certain portions of the Act;

~~(77)~~ (67) "VOC," "volatile organic compounds," ~~any compound of carbon which participates in atmospheric photochemical reactions, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate and excluding the following, which have been determined to have negligible photochemical reactivity: acetone; methane; ethane; methylene chloride (dichloromethane); 1,1,1 trichloroethane (methyl chloroform); 1,1,2 trichloro 1,2,2 trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23) 1,2 dichloro 1,1,2,2 tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115) 1,1,1 trifluoro 2,2 dichloroethane (HCFC-123); 1,1,1,2 tetrafluoroethane (HFC-134a); 1,1 dichloro 1-fluoroethane (HCFC-141b) 1 chloro 1,1 difluoroethane (HCFC-142b); 2 chloro 1,1,1,2 tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2 tetrafluoroethane (HFC-134); 1,1,1 trifluoroethane (HFC-143a); 1,1 difluoroethane (HFC-152a); 1,1,1,2,3,4,4,5,5,5 decafluoropentane (HFC-43-10mcc); 3,3 dichloro 1,1,1,2,2 pentafluoropropane (HCFC-225ca); 1,3 dichloro 1,1,2,2,3 pentafluoropropane (HCFC-225cb); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3 hexafluoropropane (HFC-236fa); 1,1,2,2,3 pentafluoropropane (HFC-245ca); 1,1,2,3,3 pentafluoropropane (HFC-245ea); 1,1,1,2,3 pentafluoropropane (HFC-245eb); 1,1,1,3,3 pentafluoropropane (HFC-245fa); 1,1,1,2,3,3 hexafluoropropane (HFC-236ca); 1,1,1,3,3 pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro 1-fluoroethane (HCFC-151a); 1,2 dichloro 1,1,2 trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4 nonafluoro 4-~~

~~methoxy butane (C₄F₉OCH₃ or HFE 7100); 2 (difluoromethoxymethyl) 1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy 1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅ or HFE 7200); 2 (ethoxydifluoromethyl) 1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy propane (n-C₃F₇OCH₃, HFE 7000); 3-ethoxy 1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE 7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC227ea); methyl formate (HCOOCH₃); and perfluorocarbon compounds which fall into these classes:~~

~~(a) Cyclic, branched, or linear completely fluorinated alkanes;~~

~~(b) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;~~

~~(c) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and~~

~~(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; [as defined in 40 C.F.R. § 51.100\(s\) \(July 1, 2009\)](#)~~

~~(78) [\(68\)](#) "Wire reclamation furnace," a furnace that uses either direct or indirect heat transfer to salvage nonferrous metals through the thermal destruction of solid waste materials;~~

~~(79) [\(69\)](#) "PM2.5," 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;~~

~~(80) [\(70\)](#) "SO₂," sulfur dioxide; ~~and~~~~

~~(81) [\(71\)](#) "NO₂," nitrogen dioxide; ~~and~~~~

~~[\(72\)](#) "Construction permit," 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.~~

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.

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 Part 52 of 40 C.F.R. (~~July 1, 2005~~ [July 1, 2009](#));

(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.

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, 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.

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;

(2) A significant change to existing monitoring, reporting, or recordkeeping 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

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; or
- (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.

Source: 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.

74:36:01:16. 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 before May 30, 1991. 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 in or ~~a~~ change in the method of operation does not include the following:

- (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, 2005~~ [July 1, 2009](#)), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (~~July 1, 2005~~ [July 1, 2009](#));
- (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, 2005~~ [July 1, 2009](#)), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (~~July 1, 2005~~ [July 1, 2009](#)); and
- (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, 2005~~ [July 1, 2009](#)) or under regulations approved pursuant to 40 C.F.R. § 51.165 (~~July 1, 2005~~ [July 1, 2009](#)).

Source: 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006.

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:

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 to 50.5, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)); 40 C.F.R. § 50.6 (~~July 1, 2005~~ [July 1, 2009](#)); 40 C.F.R. § 50.7(a)(1), (b), and (c) (~~July 1, 2005~~ [July 1, 2009](#)); 40 C.F.R. § 50.8 and 40 C.F.R. §§ 50.10 to 50.12, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)), 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 of South Dakota, and no person may cause these standards to be exceeded. The standards include normal background levels of air pollutants.

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.

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, 2005~~ [July 1, 2009](#)) shall be measured by the reference method or methods stated in 40 C.F.R. Part 50, Appendix A to Appendix N, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)) or an equivalent method designated in accordance with 40 C.F.R. Part 53 (~~July 1, 2005~~ [July 1, 2009](#)).

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.

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, 2005~~ [July 1, 2009](#)).

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.

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, 2005~~).

[July 1, 2009](#)). 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.

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 proclamation of an air pollution emergency episode and its extent shall be made by the secretary, using the criteria in 40 C.F.R. § 51.151 and Appendix L to Part 51 (~~July 1, 2005~~ [July 1, 2009](#)), 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.

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 it following the requirements in 40 C.F.R. § 51.152 (~~July 1, 2005~~ [July 1, 2009](#)). The department shall reevaluate the contingency plan in accordance with the requirements in 40 C.F.R. § 51.153 (~~July 1, 2005~~ [July 1, 2009](#)).

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.

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	Permit Minor source operating permit required.
74:36:04:02.01	Minor source operating permit exemption.
74:36:04:03	Operating permit Emission unit exemptions.
74:36:04:03.01	Minor source operating permit variance.
74:36:04:04	Standard for issuance of 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	Department's recommendation on operating permit. 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.
74:36:04:22	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 and 74:36:04:26	Repealed.
74:36:04:27	Operating permit termination, modification 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. ~~Permit~~ Minor source operating 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 which prevents or controls the emission of air pollutants into the ambient air until ~~the applicable preconstruction~~ 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.

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:

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

Law Implemented: SDCL 34A-1-21.

74:36:04:03. ~~Operating permit~~ Emission unit exemptions. The following ~~sources or~~ emission units are exempt from ~~obtaining inclusion in~~ a minor source operating permit unless the source has requested federally enforceable permit conditions related to the emission unit(s) to avoid needing a Part 70 operating permit, ~~or a prevention of significant deterioration~~ PSD preconstruction permit, or NSR preconstruction permit.:

(1) ~~A facility operating an incinerator or~~ 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 fueled by natural gas that is used exclusively for space heating;~~

~~(5)~~ (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;

~~(6)~~ (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) An emergency electrical generator powered by petroleum products;~~

~~(8) A facility that has the potential to emit 25 tons or less per year of any criteria pollutant, except lead, before the application of control equipment;~~

~~(9) A unit fueled by waste oil meeting the requirements of § 74:28:27:01;~~

~~(10)~~ (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 if the source is a minor source; ~~and~~

~~(11) Any other source constructed for domestic purposes and not intended for use by an industry, manufacturer, or business.~~

~~A source or~~ An emission unit that is exempt from permitting ~~under subdivisions (1) to (10), inclusive,~~ 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.

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](#). The owner or operator of a minor source may request a variance from applicable emission standards. The variance will allow the minor source to operate in noncompliance with applicable emission standards. A minor source is eligible for a variance if it is located within an area that is in attainment for all regulated [air](#) pollutants for which the source is requesting a variance. The minor source may not receive a variance if the source obtained a minor [source](#) operating permit by accepting federally enforceable permit conditions to prevent the source from needing a Part 70 operating permit.

The owner or operator desiring to obtain a variance must submit an application. The application must include the same provisions required by § 74:36:04:07, the requirements and a compliance plan for which a variance is requested, and the facts relevant to establishing the burden of proof required under SDCL 34A-1-27. The compliance plan must outline the steps that will be taken to come into compliance and the completion date for each step.

The board shall hold a hearing on the department's recommendation on a request for a variance. Any person affected by the recommendation or any person interested in testifying either for or against the department's recommendation may submit written comments to the department or present oral testimony before the board at the hearing. After the hearing is closed, the board may ~~either~~ amend [and approve](#), deny, or adopt the department's recommendation.

Source: 23 SDR 106, effective December 29, 1996; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6, 34A-1-19, 34A-1-24.

Law Implemented: SDCL 34A-1-12, 34A-1-19, 34A-1-24.

Cross-Reference: Operating permits for Part 70 sources, ch 74:36:05.

Note: The procedural requirements for obtaining a variance are similar to the procedural requirements for obtaining a minor source [operating](#) permit, such as a timely and complete application, completeness review, statement of basis, public participation, and department recommendation, as outlined in §§ 74:36:04:06 to 74:36:04:12, inclusive.

74:36:04:04. Standard for issuance of [a minor source operating permit](#). An operating permit for a **new** source or permit **modification** [revision](#) may be issued only if it has been shown that the operation of the **new** source or permit **modification** [revision](#) will not prevent or interfere with the attainment or maintenance of an applicable national ambient air quality standard. Compliance with this requirement as determined by air pollution dispersion modeling **is** [shall](#) not [be](#) 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, 2005~~ [July 1, 2009](#)). Each **new** source, ~~existing source, and permit modification~~ must comply with emission limits and other requirements of the act [and Clean Air Act](#). The [minor source](#) operating permit must include

reasonable conditions, including adherence to plans and specifications, to assure compliance with the act, [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.

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.

General Authority: SDCL 34A-1-6, 34A-1-21, 34A-1-24.

Law Implemented: SDCL 34A-1-21, 34A-1-24.

74:36:04:06. Timely and complete application for operating permit required. A person who owns or operates a source required to have ~~an~~ 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 ~~at least 120 days, which includes the 30-day public notice period, before the estimated date of commencing construction of the source or operation of a constructed source~~ 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 ~~a~~ 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.

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 § 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 submit 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 ~~points~~ units;

(b) Fuels, fuel use, ~~and~~ raw materials, ~~used~~ 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.

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 ~~review~~ [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.

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 ~~completed~~ [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 assure 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.

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. ~~The department, after review of a complete application for an operating permit or a renewal of an operating permit for a minor source shall recommend to the board that the permit be issued or denied. The recommendation to issue a permit shall include a draft permit with appropriate conditions to assure compliance with the act.~~ [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.

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

~~**Law Implemented:** SDCL 34A-1-21, 34A-1-29, 34A-1-30.~~

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 ~~facility~~ [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.

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

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-30.

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 ~~department's~~ 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.

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 ~~new, modified, or renewed~~ permit, denying a permit, or terminating a permit.

The ~~proposed new, modified, or renewed~~ 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 ~~proposed new, modified, or renewed~~ 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.

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34.

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.

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34.

74:36:04:15. Contents of operating permit. An operating permit ~~or a renewal of 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 ~~plant~~ [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 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 Clean Air Act](#);

(10) Monitoring and related recordkeeping 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, ~~or modification~~ [permit revision](#), or ~~for~~ denial of a permit renewal application;

(b) The operating permit may be ~~modified~~ [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 if cause exists for ~~modifying~~ [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.

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

Law Implemented: SDCL 34A-1-21, 34A-1-30.

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.

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.

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 ~~applicant's~~ submittal of ~~a notice and~~ [an](#) application. The ~~notice application~~ must specify if the requested revision is an administrative permit amendment, minor permit amendment, or [a](#) permit modification with supporting documentation. The application

shall 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.

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 ~~facility~~ [source](#) may implement a proposed revision that is considered an administrative permit amendment immediately upon notifying the department. The department shall determine if 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 ~~an operating a~~ permit [modification](#).

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.

74:36:04:20.01. 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.

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 recordkeeping 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 ~~facility~~ [source](#) may implement a proposed revision that is considered a minor permit amendment seven days after ~~notifying the department~~ [submitting a complete application](#). The secretary shall issue minor permit amendments without the procedural requirements applicable to obtaining ~~an operating a~~ permit [modification](#).

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

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

Law Implemented: SDCL 34A-1-21.

74:36:04:21. 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.

74:36:04:22. 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 assure compliance with the applicable requirements of this article [and the Clean Air Act](#).

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

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

Law Implemented: SDCL 34A-1-21.

74:36:04:24. 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 exist.

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, ~~modification~~ revision, and revocation.

The board, upon recommendation by the secretary, may terminate, ~~modify~~ 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.

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 recordkeeping 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 [construct 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.

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 74:36:05

OPERATING PERMITS FOR PART 70 SOURCES

Section

74:36:05:01	Applicability.
74:36:05:02	Permit Part 70 operating permit required.
74:36:05:03	Sources required to obtain a Part 70 operating permit.
74:36:05:03.01	PSD or NSR preconstruction permit required. Repealed.
74:36:05:04	Sources exempt from obtaining a Part 70 operating permit.
74:36:05:04.01	Insignificant activities.
74:36:05:05	Transferred.
74:36:05:06	Standard for issuance of a Part 70 operating permit.

74:36:05:06.01	Fees required for operating permit.
74:36:05:07	Time period for operating permits and renewals.
74:36:05:08	Timely and complete application for operating permit required.
74:36:05:09	Complete application.
74:36:05:10 and 74:36:05:11	Transferred.
74:36:05:12	Required contents of complete application.
74:36:05:13	Applicant required to supplement or correct application.
74:36:05:14	Repealed.
74:36:05:15	Deadline for final action on permit application.
74:36:05:16	Statement of basis for recommended permit conditions.
74:36:05:16.01	Operating permit requirements.
74:36:05:17	Public participation in permitting process.
74:36:05:18	Public and affected state review of draft permit.
74:36:05:19	Transferred.
74:36:05:20	Repealed.
74:36:05:20.01	Final permit decision -- Notice to interested persons.
74:36:05:20.02	Petitions for contested case hearing.
74:36:05:20.03	EPA review of Part 70 operating permit.
74:36:05:21	EPA objection to issuance of operating permit.
74:36:05:21.01	Department response to EPA objection.
74:36:05:22	Department failure to meet EPA objection deadline.
74:36:05:23	Public petition to EPA on the final permit.
74:36:05:24	Repealed.

74:36:05:25 to 74:36:05:27 Transferred.

74:36:05:28 Permit expiration.

74:36:05:29 Permit renewal.

74:36:05:30 Permit flexibility.

74:36:05:31 Permit amendment -- Application required.

74:36:05:32 Administrative permit amendment required.

74:36:05:33 Procedure for administrative permit amendments.

74:36:05:34 Minor permit amendment required.

74:36:05:35 Requirements for minor permit amendments.

74:36:05:36 Application for minor permit amendment.

74:36:05:37 Notification of EPA and affected states required.

74:36:05:38 Department deadline to approve minor permit amendment.

74:36:05:39 Permit modifications.

74:36:05:40 Reopening operating permit for cause.

74:36:05:41 Procedures to reopen permit.

74:36:05:42 Reopening permit for cause by EPA.

74:36:05:43 EPA review of proposed determination.

74:36:05:44 Department failure to submit proposed determination.

74:36:05:45 Repealed.

74:36:05:46 Permit termination, modification, revocation, and reissuance by
department.

74:36:05:47 Notice of operating noncompliance -- Contents.

74:36:05:47.01 Circumvention of emissions not allowed.

74:36:05:48	Petition for contested case on alleged violation.
74:36:05:49	Repealed.
74:36:05:50	Federal enforceability of permit conditions.
74:36:05:51	General permits.
74:36:05:52	Secretary may require an individual permit.

74:36:05:01. Applicability. The requirements of this chapter apply to all [Part 70](#) sources ~~required to obtain a Part 70 operating permit.~~

Source: 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:02. Permit [Part 70 operating permit](#) required. A person may not ~~construct, install, modify, revise, or~~ operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment which prevents or controls the emission of air pollutants into the ambient air until ~~the applicable preconstruction~~ [a construction permit, PSD preconstruction permit, NSR preconstruction permit,](#) or Part 70 operating permit has been issued by the board or the secretary.

Source: 19 SDR 157, effective April 22, 1993; second paragraph transferred from § 74:36:05:05, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

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

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

Cross-References: Sources exempt from obtaining a Part 70 operating permit, § 74:36:05:04; Timely and complete application for operating permit required, § 74:36:05:08.

74:36:05:03. Sources required to obtain a Part 70 operating permit. Sources required to obtain a Part 70 operating permit include the following:

- (1) Any major source;
- (2) Any source, including an area source, subject to a standard or regulation promulgated under § 111 of the Clean Air Act [unless otherwise specified in § 74:36:07](#);
- (3) Any source, including an area source, subject to a standard or regulation promulgated under § 112 of the Clean Air Act, except for a source that is solely subject to the regulations or requirements of § 112(r) [or unless otherwise specified in § 74:36:08](#);
- (4) Any affected source subject to Title IV of the Clean Air Act; and
- (5) Any source in a source category designated by the administrator of the EPA through the Clean Air Act pursuant to Title V 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.

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

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

74:36:05:03.01. PSD or NSR preconstruction permit required. ~~The submittal of a complete application for an operating permit for a Part 70 source does not affect the requirement that a source have a PSD or NSR preconstruction permit as required under § 110, 165, 172, or 173 of the Clean Air Act or chapters 74:36:09 and 74:36:10. A PSD or NSR source must submit a complete application for a Part 70 operating permit within 12 months after commencing operation.~~ [Repealed.](#)

Source: 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:10, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995.

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

~~**Law Implemented:** SDCL 34A-1-21.~~

74:36:05:04. Sources exempt from obtaining a Part 70 operating permit. The following sources are exempt from obtaining a Part 70 operating permit:

- (1) All sources that are not included in § 74:36:05:03;
- (2) Sources [that operate a unit](#) subject to 40 C.F.R. 60, Subpart AAA-Standards of Performance for New Residential Wood Heaters (~~July 1, 2005~~ [July 1, 2009](#)) [are exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted](#)

sources must still meet the applicable requirements in 40 C.F.R. § 60, Subpart AAA (July 1, 2009); or;

(3) Sources that operate a unit subject to 40 C.F.R. § 61.145, Standard for Demolition and Renovation (~~July 1, 2005~~ July 1, 2009) are exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 61.145 (July 1, 2009).

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.

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

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

74:36:05:04.01. Insignificant activities. The following emission units are considered insignificant activities and are exempt from inclusion in a Part 70 operating permit unless the source has requested federally enforceable permit conditions related to the insignificant activity to avoid needing a PSD preconstruction permit or NSR preconstruction permit:

(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 engines in autos, trucks, tractors, airplanes, locomotives, and boats;

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

(4) A ~~device or apparatus~~ 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. ~~A unit may not be considered insignificant if a state or federal limit is applicable to the unit.~~ However, the criteria pollutant emissions from the unit must be included in determining if the source is a major source; and

(8) A unit that has the potential to emit two tons or less per year of any hazardous air pollutant. However, the hazardous air pollutant emissions from the unit must be included in determining if the source is a major ~~or minor~~ source. A unit can not be considered insignificant if a state or federal limit is applicable to the unit.

However, insignificant activities exempted because of size or production rate must be identified in the Part 70 operating permit application. An application may not omit information needed to determine the applicability of or to impose an applicable requirement.

Source: 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005.

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

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

74:36:05:05. Transferred to § 74:36:05:02.

74:36:05:06. Standard for issuance of [a Part 70 operating permit](#). A Part 70 operating permit for a ~~new~~ source or permit ~~modification~~ [revision](#) may be issued only if it has been shown that the operation of the ~~new~~ source or permit ~~modification~~ [revision](#) will not prevent or interfere with the attainment or maintenance of an applicable ambient air quality standard. Compliance with this requirement as determined by air pollution dispersion modeling ~~is~~ [shall](#) not ~~be~~ 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, 2005~~ [July 1, 2009](#)). Each ~~new source, existing source, and permit modification~~ must comply with emission limits and other requirements of the act [and Clean Air Act](#). A Part 70 operating permit must include reasonable conditions, including adherence to plans and specifications, to assure compliance with the act, [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; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006.

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

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

74:36:05:06.01. Fees required for operating permit. The applicant for ~~an~~ [a Part 70 operating permit](#) ~~for~~ [and the owner or operator of a source with](#) a Part 70 ~~source~~ [operating permit](#) shall submit a fee in accordance with article 74:37.

Source: 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:11, 20 SDR 125, effective February 9, 1994.

General Authority: SDCL 34A-1-57, 34A-1-58.

Law Implemented: SDCL 34A-1-58.

74:36:05:07. Time period for operating permits and renewals. A permit for an affected source under Title IV of the Clean Air Act shall be for a fixed term of five years. Operating permits for all Part 70 sources shall be issued for a period up to five years [and all subsequent operating permits shall be for a period of five years](#). A permit issued for a solid waste incinerator subject to the requirements of § 129(e) of the Clean Air Act shall be for a period not to exceed 12 years and shall be reviewed by the department every 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.

General Authority: SDCL 34A-1-6, 34A-1-21, 34A-1-24.

Law Implemented: SDCL 34A-1-21, 34A-1-24.

74:36:05:08. Timely and complete application for operating permit required. A person who owns or operates a Part 70 source required to have an operating permit must 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 §§ 74:36:05:12 and 74:36:05:13. The time limits are set as follows:

(1) A source applying for its initial Part 70 operating permit ~~or a modification to an existing source, except as provided in subdivision (3),~~ must submit a complete application to the department ~~no less than six months before beginning actual construction. An application may be submitted in a shorter time frame if the applicant receives prior written approval from the department. For purposes of this section, beginning actual construction means the initiation of physical, onsite construction, reconstruction, or modification activities on a unit or change in method of operation that are of permanent nature~~ within 12 months after commencing operation;

(2) A Part 70 source applying for a permit modification shall submit a complete application to the department within 12 months after commencing operation of the emission units involved with the modification.

~~(2)~~ (3) A Part 70 source applying for renewal of an operating permit must submit a complete application six months before the date of permit expiration. If a source submits a timely and complete application for renewal of a permit, the terms and conditions of the existing permit remain in effect until the renewal permit has been issued or denied. This right to operate pending action on an application is extinguished if the applicant fails to submit on time the information identified in § 74:36:05:12;

~~(3)~~ (4) Part 70 sources required to obtain approval under § 112(g) of the Clean Air Act or ~~to~~ have a [PSD preconstruction permit or NSR preconstruction permit](#) ~~under the preconstruction review program under part C or D of Title I of the Clean Air Act~~ must file a complete application to obtain a Part 70 operating permit or a permit modification, whichever is applicable, for the Part 70 source within 12 months after commencing operation. If an existing operating permit for a Part 70 source would prohibit [such](#) construction or the change in operation, the source must obtain ~~a~~ [the applicable construction permit, PSD preconstruction permit, or NSR preconstruction permit modification](#) before commencing operation;

~~(4)~~ (5) Applications for initial phase II acid rain permits must be submitted to the department by January 1, 1996, for sulfur dioxide and by January 1, 1998, for nitrogen oxides; and

~~(5)~~ (6) An existing municipal solid waste landfill that meets the requirements of subdivisions 74:36:07:34(1) and (2) is required to submit a Part 70 operating permit application within 15 months of the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005.

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

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

[Note: A Part 70 source applying for an initial operating permit or a permit modification must obtain a construction permit in accordance with §§ 74:36:09, 74:36:10, or 74:36:20 before commencing construction of the source or permit modification.](#)

74:36:05:09. Complete application. The department shall determine completeness of an application for an [initial](#) Part 70 operating permit, permit modification, or renewal of a Part 70 operating permit within 60 days after its receipt and shall notify the applicant in writing of its determination. If the department does not notify the applicant that the application is incomplete within 60 days after receipt of the application, the applicant may consider the application complete. At any time during the processing of the application, the department may request, in writing, additional information necessary to evaluate or take final action on the application.

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 ~~an additional~~ 20 working days [after receipt of an incomplete notification or request for additional information](#) to submit the ~~requested~~ information, [unless an extension beyond the 20 working days is approved by the department](#). The department shall determine the adequacy of the applicant's response to each incomplete item within 20 days after receipt of the response and shall notify the applicant in writing if the application is or is not complete.

Once a designated representative submits a timely and complete acid rain permit application, the owners or operators of the affected source and the affected units covered by the permit application are considered in compliance with the requirement to have an acid rain permit

until the final permit is issued, provided that any requested additional information is submitted during the permitting process.

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, 34A-1-21.

Law Implemented: SDCL 34A-1-21.

74:36:05:10. Transferred to § 74:36:05:03.01.

74:36:05:11. Transferred to § 74:36:05:06.01.

74:36:05:12. Required contents of complete application. An applicant for an operating permit for a Part 70 source [or permit modification](#) must submit the following information for the application to be considered complete:

(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 plant description in terms of the processes and products identified by the Standard Industrial Classification Code, 1987, including any associated with each alternate scenario identified by the source;

(3) The following information on emissions:

(a) All emissions of pollutants for which the source is major and all emissions of regulated air pollutants. The applicant must describe all emissions of regulated air pollutants emitted from any emissions unit, except when such units are exempt;

(b) Identification and description of all emission ~~points~~ units described in subsection (a) of this subdivision in sufficient detail to establish the basis for fees and the applicability of requirements of the Clean Air Act;

(c) Emissions rates in total tons per year and in any other terms necessary to establish compliance consistent with the applicable standard reference test method;

(d) Fuels, fuel use, raw materials, production rates, and operating schedules;

(e) Identification and description of air pollution control equipment and compliance monitoring devices or activities;

(f) Limits on source operation affecting emissions or any work practice standards, as applicable for all regulated air pollutants;

(g) For all pollutants regulated at the source, 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; and

(h) Calculations on which the items in this subdivision are based;

(4) One copy of any prepared plans and the specifications of any equipment or other facilities that 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, as provided by the department;

(7) The results of any air dispersion modeling [or stack performance testing](#) required by the department;

(8) Citation and description of all applicable air pollution control emission limit requirements;

(9) A review of fugitive emissions included in the same manner as stack emissions, whether or not the source is included in the list of sources contained in the definition of major source;

(10) A description of or reference to any applicable test method for determining compliance with each applicable requirement;

(11) Any additional information that may be necessary to implement and enforce other requirements of the Clean Air Act or to determine the applicability of such requirements;

(12) An explanation of any proposed exemptions from otherwise applicable requirements;

(13) The use of standardized forms for acid rain portions of permit applications and compliance plans;

(14) Information necessary to define reasonably anticipated alternative operating scenarios, to define permit terms and conditions pursuant to § 74:36:05:30, or to implement a federally enforceable emission cap;

(15) A compliance plan that contains all of the following and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject:

(a) A description of the compliance status of the source for all applicable requirements, including applicable requirements that will become effective during the term of the permit;

(b) A description of the requirements for which the source is not in compliance at the time of permit issuance and a narrative description and a compliance schedule of how the source

will achieve compliance with such requirements. The compliance schedule must include a statement that progress reports will be submitted at least once every six months; and

(c) A statement that the source will continue to demonstrate compliance with applicable requirements;

(16) A certification of compliance by a responsible official that addresses all air pollution control requirements applicable to the source. A certification of compliance for an affected source subject to Title IV and chapter 74:36:16 must be submitted by the designated representative. This certification must be consistent with any applicable enhanced monitoring and compliance certification requirement of the Clean Air Act and must include:

(a) A statement indicating methods used to determine compliance, including monitoring, recordkeeping and reporting requirements, and test methods;

(b) A statement that compliance certifications will be submitted at least annually or at other designated times for the duration of the permit to the department;

(c) A statement that the source is in compliance with all applicable requirements;

(d) A statement identifying the condition of the permit that is the basis of the certification, indicating the compliance status, and identifying whether compliance is continuous or intermittent; and

(e) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Clean Air Act;

(17) A certification by a responsible official of the truth, accuracy, and completeness of any application form, report, or compliance certification submitted to the department. This certification and any other required certification must state that, based on information and belief

formed after reasonable inquiry, the statements and information in the documents are true, accurate, and complete; and

(18) Any other information requested by the department after submission of an application for a permit to operate a Part 70 source which is relevant to determine compliance of the source with the Clean Air Act.

An application for a renewal of an operating permit for a Part 70 source may refer to previously submitted material.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 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.

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.

74:36:05:13. 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: 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.

74:36:05:14. Permit application -- Completeness review. Repealed.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; repealed, 21 SDR 119, effective January 5, 1995.

74:36:05:15. Deadline for final action on permit application. Except for the permitting of affected sources under the Title IV acid rain program, final action on each permit application for an operating permit for a Part 70 source, including requests for permit modification or renewal, must be completed within 18 months after receipt of a complete application.

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.

74:36:05:16. Statement of basis for recommended permit conditions. The department shall review the complete application for a Part 70 operating permit and develop a statement that

sets forth the legal and factual basis for the recommended permit conditions, including references to the applicable statutory or regulatory provisions. The department shall provide this statement to EPA, the applicant, and, upon request, to the public and affected states with the draft permit.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:16.01. Operating permit requirements. Each permit issued for the operation of a Part 70 source must contain:

(1) The name of the person, company, political subdivision, agency, or institution granted a permit;

(2) The type of operation;

(3) The ~~plant~~ [facility](#) and mailing address;

(4) The date the operating permit was granted and on which it will expire;

(5) A number for administrative reference;

(6) ~~A~~ [The name of a](#) designated person or officer responsible for the source's operation;

(7) 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 Clean Air Act](#);

(8) 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](#) Clean Air Act and including the following:

(a) The reference of authority for each term or condition;

(b) The applicable requirements from the Clean Air Act and from Title IV requirements of the Clean Air Act, reviewing both requirements and distinguishing which is more stringent and incorporating both into the permit; and

(c) If an alternative emission limit is approved in the state implementation plan (SIP), provisions to ensure that the alternative emission limit in the permit issuance, renewal, or permit modification process has been demonstrated to be equivalent to the applicable emission limit in the state implementation plan and is quantifiable, accountable, enforceable, and based on replicable procedures;

(9) Monitoring and related recordkeeping and reporting requirements, consisting of at least the following:

(a) All emissions monitoring and analysis procedures, alternative approved methods or test methods required under the applicable requirements, including procedures and methods in § 504(b) or 114(a)(3) of the Clean Air Act;

(b) If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Such monitoring requirements must assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement;

(c) As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;

(d) Documentation of the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

(ii) The date or dates analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses; and

(vi) The operating conditions as existing at the time of sampling or measurement;

(e) Recordkeeping and reporting requirements that comply with the following:

(i) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all deviations from permit requirements and conditions. All required reports must be certified by a responsible official; and

(ii) Deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(f) 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; and

(10) If applicable, a condition prohibiting emissions exceeding any allowances that the source lawfully holds, exceedances of applicable emission rates, and the use of any allowance prior to the year for which it was allocated under the Title IV program of the Clean Air Act;

(11) A severability clause asserting the continued validity of permit requirements if any portions of the permit are challenged;

(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, ~~or modification~~ [permit revision](#), or ~~for~~ denial of a permit renewal application;

(b) A permittee in an enforcement action may not use the defense that it would have been necessary to cease or reduce the permitted activity in order to maintain compliance;

(c) The permit may be ~~modified~~, [revised](#), revoked and reissued, reopened, or terminated for cause. ~~Existing permit conditions will not be affected by the~~ [The](#) filing of a request by the permittee for a permit ~~modification~~ [revision](#), revocation and reissuance, or termination or of a notification of planned changes or anticipated noncompliance [does not stay any permit condition](#);

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

(e) The permittee must provide any information, including records, requested in writing by the department to determine whether cause exists for ~~modifying~~ [revising](#), revoking and reissuing, reopening, or terminating the permit or to determine compliance;

(13) Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application and approved by the department. The terms and conditions must require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating and must ensure that the terms and conditions of each such alternative scenario meet all requirements of the Clean Air Act;

(14) Compliance requirements that contain the following:

(a) A compliance certification and testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. All documents, including reports, required by the permit must be certified by a responsible official consistent with subdivision 74:36:05:12(17). The compliance certification must be submitted annually from the date of permit issuance to the department and EPA;

(b) Inspection and entry requirements that require the permittee to allow the department or an authorized representative to perform the following:

(1) Enter upon the permittee's premises where a Part 70 source is located or emissions-related activity is conducted or where records must be kept under the conditions of the permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(3) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and

(4) As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements;

(c) A compliance plan in accordance with subdivision 74:36:05:12(15), including progress reports on noncompliance indicating the dates that compliance will be achieved or the dates that compliance was achieved as referred to in a schedule of compliance. The report must state an explanation for not attaining dates of compliance and must be submitted to the department semiannually or more frequently as required by the department; [and](#)

(d) A compliance certification in accordance with subdivision 74:36:05:12(16);

(15) A condition requiring a Part 70 source to pay any required fees;

(16) A condition stating that no permit revisions are required for increases in emissions allowed through emissions trading to the extent that such trades are authorized by the applicable requirements of the Clean Air Act;

(17) Any provisions the department uses to issue general permits that are in accordance with 40 C.F.R. Part 70.6(d) (~~July 1, 2005~~ [July 1, 2009](#));

(18) Provisions for permit emission exceedances due to emergencies that are in accordance with the requirements in 40 C.F.R. Part 70.6(g) (~~July 1, 2005~~ [July 1, 2009](#)); [and](#)

(19) All applicable requirements of the Clean Air Act.

Source: 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:27, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006.

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

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

74:36:05:17. Public participation in permitting process. All operating permit issuance proceedings, including renewals, [permit modifications](#), and reopenings, for a Part 70 source, except as provided in this chapter, must provide an opportunity for public and affected states to comment on the draft permit.

The department shall publish the public notice on the draft permit once in a legal newspaper in the county where the source is located. The public notice must include the following:

- (1) A brief statement describing the [facility source](#), including the name and address of the permittee;
- (2) The activity or activities involved in the permit action;
- (3) The emissions change involved in any permit modification;
- (4) The department's recommendation and the reasons for it;
- (5) A statement that a person may submit comments or contest the draft permit within 30 days after 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; and
- (6) 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: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:18. Public and affected state review of draft permit. During the public comment period, any interested person or affected state 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 §§ 74:36:05:20 and 74:36:05:20.01. 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: 19 SDR 157, adopted April 22, 1993, effective November 15, 1994; 20 SDR 125, amended February 9, 1994, effective November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:19. Transferred to § 74:36:05:20.03.

74:36:05:20. Department review of affected states' comments on draft permit.

Repealed.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, amended February 9, 1994, and effective date changed to November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; repealed, 25 SDR 123, effective April 4, 1999.

74:36:05:20.01. 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 or affected state 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 ~~new, modified, or renewed~~ permit, denying a permit, or terminating a permit.

The proposed ~~new, modified, or renewed~~ [Part 70 operating](#) permit will be submitted to EPA within 30 days of notifying the applicant and each person or affected state 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 proposed [Part 70 operating](#) permit is submitted to EPA.

Source: 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:25, 20 SDR 125, effective February 9, 1994; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34.

74:36:05:20.02. Petitions for contested case hearing. The applicant, interested person, or affected state 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 the notice required by § 74:36:05:17.

The applicant or an interested person or affected state 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 the applicant, interested person, or affected state receives 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; transferred from § 74:36:05:26, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34.

74:36:05:20.03. EPA review of Part 70 operating permit. The department shall submit to EPA a copy of each permit application for ~~an operating permit for~~ a Part 70 ~~source~~ [operating permit](#), including any application for [a](#) permit modification at the time the application is received by the department, minutes of the proceedings of a contested case hearing, the draft permit, comments from the public or affected states on the draft permit and the department's response, the proposed Part 70 operating permit, and the final permit after EPA review. The department may, in agreement with EPA, submit a permit application summary form and any relevant portion of the permit application or compliance plan.

Source: 19 SDR 157, adopted April 22, 1993, effective November 15, 1994; 20 SDR 125, transferred from § 74:36:05:19 and amended February 9, 1994, effective November 15, 1994; 21

SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; 25 SDR 123, effective April 4, 1999.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:21. EPA objection to issuance of operating permit. The department may not issue a proposed Part 70 operating permit as a final permit for a Part 70 source if EPA objects to its issuance within 45 days after receipt of the proposed Part 70 operating permit pursuant to § 74:36:05:20.03. If there is no EPA objection, the department shall issue the proposed Part 70 operating permit as a final permit.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, amended February 9, 1994, and effective date changed to November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995.

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

Law Implemented: SDCL 34A-1-21.

Cross-Reference: EPA objection procedure, 40 C.F.R. § 70.8(c).

74:36:05:21.01. Department response to EPA objection. The department shall respond within 90 days to the EPA objection. The department may either revise the proposed Part 70 operating permit or justify its position on the proposed Part 70 operating permit to EPA. If the department decides to revise the proposed Part 70 operating permit, it shall ~~publish a public~~

~~notice as required by § 74:36:05:17 and take comments from the public on the revised permit~~
follow the procedural requirements for an initial Part 70 operating permit, administrative permit amendment, minor permit amendment, or permit modification, as applicable. -

If the EPA concurs with the revised proposed Part 70 operating permit or the department's justification, the department shall issue a final permit and submit it to the EPA. If the EPA does not concur, the EPA is responsible for issuing the final permit.

Source: 20 SDR 125, adopted February 9, 1994, effective November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:22. Department failure to meet EPA objection deadline. If the department fails to submit a revised proposed Part 70 operating permit or justification in accordance with § 74:36:05:21.01 to EPA to meet the objection within 90 days after its receipt, responsibility for issuing or denying the final permit rests with EPA.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, amended February 9, 1994, and effective date changed to November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:23. Public petition to EPA on the final permit. When a proposed Part 70 operating permit is issued as a final permit by the EPA or the department, a person may petition the EPA in writing within 60 days after expiration of EPA's review period specified in §§ 74:36:05:20.03 to 74:36:05:22, inclusive, to object to the issuance of a final permit. The petition may be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within the public comment period or unless the grounds for the objection arose after the public comment period. If EPA objects to the issuance of the final permit as a result of a petition, the department shall respond to EPA's objection. Upon resolution of EPA's objection, the permit shall remain the same or may be modified, terminated, or revoked by the department or EPA.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, amended February 9, 1994, and effective date changed to November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:24. Affected state and EPA review required. Repealed.

Source: 19 SDR 157, effective April 22, 1993; repealed, 20 SDR 125, effective February 9, 1994.

74:36:05:25. Transferred to § 74:36:05:20.01.

74:36:05:26. Transferred to § 74:36:05:20.02.

74:36:05:27. Transferred to § 74:36:05:16.01.

74:36:05:28. Permit expiration. Permit expiration terminates the source's right to operate [under the Part 70 operating permit](#) unless a timely and complete renewal application has been submitted to the department.

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

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

Law Implemented: SDCL 34A-1-21.

Cross-Reference: Timely and complete application for operating permit required, § 74:36:05:08.

74:36:05:29. Permit renewal. Permits to be renewed are subject to the same procedural requirements in §§ 74:36:05:08 to 74:36:05:23, inclusive, as the original Part 70 operating permit issuance.

Source: 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 31 SDR 101, effective January 2, 2005.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:30. Permit flexibility. An operating permit issued to a Part 70 source must allow the source to make the changes listed below without requiring a permit revision before the source makes those changes if the change is not a modification under any provision of Title I of the Clean Air Act and the change does not exceed the emissions allowable under the permit. The source must provide ~~both EPA and~~ the department written notification as required in this section at least seven days in advance of the proposed changes. The source, ~~the EPA,~~ and the department shall attach each such notice to its copy of the relevant permit.

Permitted sources may make changes which do not violate any applicable requirements or contravene federally enforceable permit terms and conditions, such as monitoring, including test methods; recordkeeping; reporting; or compliance certification requirements. For each such change, the written notice must include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change

If a permit applicant requests it, the department must issue permits that contain terms and conditions, including all requirements under § 74:36:05:16.01, allowing for the trading of increases and decreases in the permitted facility solely for the purpose of complying with a

federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant must include in its permit application the proposed replicable procedures and permit terms that ensure that the emission trades are quantifiable and enforceable. Any emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades shall not be permitted for trading of emissions. The written notice must include, at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, and how these increases and decreases in emissions will comply with the terms and conditions of the 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.

74:36:05:31. Permit amendment -- Application required. An amendment to a permit can be applied for at any time by the ~~applicant's~~ submittal of an application. The application must specify if the requested ~~amendment and the reasons for it~~ permit revision is an administrative permit amendment, a minor permit amendment, or a permit modification. The application shall contain the necessary information required for an administrative permit amendment, minor permit amendment, or permit modification.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:32. Administrative permit amendment required. An administrative permit amendment may be issued for a revision to a 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; 23 SDR 106, effective December 29, 1996.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:33. Procedure for administrative permit amendments. An administrative permit amendment shall be made by the department without being subject to advance notice or the procedural requirements applicable to a permit modification. The department shall take no more than 60 days from receipt of an application for an administrative permit amendment to take final action on the application. The department may make such changes without providing notice to the public or affected states if it designates any such permit revisions as being made pursuant to this section. The department shall submit a copy of the revised permit to EPA. The source may implement the changes addressed in the application for an administrative amendment immediately upon submitting the application.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:34. Minor permit amendment required. A Part 70 source may request a minor permit amendment under §§ 74:36:05:35 to 74:36:05:38, 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: 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-1-12, 34A-1-21.

74:36:05:35. Requirements for minor permit amendments. A minor permit amendment is an amendment to an existing permit and is issued by the secretary. 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 recordkeeping 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, and 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: 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.

74:36:05:36. 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;

(3) Certification by a responsible official that the proposed revision meets the applicable requirements of a minor permit amendment; and

(4) Completed forms for notifying EPA and any affected states.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:37. Notification of EPA and affected states required. The department shall notify EPA and any affected states within five working days after receipt of a complete minor permit amendment application.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:38. Department deadline to approve minor permit amendment. ~~The department may not issue a final minor permit amendment until after EPA's 45-day review or until EPA has notified the department that EPA will not object to the issuance of the 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 a minor permit amendment or 15 days after the end of EPA's 45-day review period, whichever is later:

- (1) Issue the minor permit amendment as proposed;
- (2) Deny the minor permit amendment application;
- (3) Determine that the requested minor permit amendment should be processed as a permit modification; or
- (4) Revise the proposed minor permit amendment and transmit the revised amendment to EPA.

The department is not required to public notice a minor permit amendment; but the final permit decision for a minor permit amendment must be submitted to EPA for a 45-day review. The department may not issue a final permit for a minor permit amendment until after EPA's 45-day review or until EPA has notified the department that EPA will not object to the issuance of the minor permit amendment. The source may implement a proposed revision that is considered a minor permit amendment seven days after submitting a complete application.

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.

74:36:05:39. Permit modifications. Permit modifications are subject to the same procedural requirements in §§ 74:36:05:08 to 74:36:05:23, inclusive, as the original permit issuance, except that the required review covers 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.

74:36:05:40. Reopening operating permit for cause. The department may reopen and revise an operating permit for the following reasons:

(1) Additional requirements of the Clean Air Act become applicable to a major source subject to a Part 70 operating permit and for which three years or more remain on the term of the permit. Such reopenings or revisions shall be made not more than 18 months after the promulgation of the relevant standard or regulations. Such reopenings or revisions are not required if the effective date of the requirement is later than the date on which the permit is due to expire;

(2) Additional requirements become applicable to an affected source under Title IV of the Clean Air Act;

(3) There is a determination by the department or EPA that the permit contains inaccurate statements or material mistakes in establishing the emission standard limitations on other requirements of the permit; or

(4) The department or EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements of the Clean Air Act or this article.

Source: 19 SDR 157, effective April 22, 1993; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005.

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

Law Implemented: SDCL 34A-1-21.

74:36:05:41. Procedures to reopen permit. Reopening a 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. The department shall follow the procedural requirements for initial permit issuance and shall notify the source ~~subject to Part 70~~ at least 30 days before reopening a permit issued to the source. The department may provide a shorter notice in an emergency.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:42. Reopening permit for cause by EPA. Within 90 days after EPA notifies the department and permittee that cause exists to terminate, ~~modify~~ revise, or revoke and reissue a permit, the department shall submit to EPA a proposed determination of termination, ~~modification~~ revision, or revocation and reissuance.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:43. EPA review of proposed determination. After EPA review of the proposed determination, the department has 90 days from receipt of an EPA objection to resolve the rejection.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:44. Department failure to submit proposed determination. Department failure to submit a proposed determination within the 90-day period in § 74:36:05:42 or failure to resolve the objection in § 74:36:05:43 will result in termination, ~~modification~~ [revision](#), or revocation and reissuance of the permit by EPA after the permittee receives 30 days written notice from the EPA of the reasons for the action and the permittee has an opportunity for comment and hearing by EPA on the proposed action.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:45. EPA's decision final action. Repealed.

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

74:36:05:46. Permit termination, modification, revocation, and reissuance by department. The department ~~shall~~ may terminate, ~~modify~~ revise, or revoke permits for violations of the Clean Air Act or this article or for nonpayment of a fee. Invalidation of the acid rain portion of an operating permit does not affect the continuing validity of the rest of the operating permit, nor does invalidation of any other portion of the operating permit affect the continuing validity of the acid rain portion of the permit.

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

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

Law Implemented: SDCL 34A-1-21.

74:36:05:47. Notice of operating noncompliance -- Contents. If the department determines that the operation of a source is not in compliance with the rules, statutory requirements, or permit conditions, the department may issue a notice of such findings to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated, reference to this section, 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 specifying a compliance agreement, which may include a penalty under SDCL 34A-1-39 and the date for final compliance of the source. 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, 34A-1-21.

Law Implemented: SDCL 1-26-20, 34A-1-39, 34A-1-53.

74:36:05:47.01. 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: 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:05:48. Petition for contested case on alleged violation. In accordance with § 74:36:05:47, the department may file a petition containing the information required in article 74:09 to request an order directing corrective action, that an enforcement hearing be scheduled

pursuant to the provisions of article 74:09, 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.

74:36:05:49. Stack performance tests required. Repealed.

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

74:36:05:50. Federal enforceability of permit conditions. All terms and conditions of a Part 70 operating permit issued pursuant to this article, including any provisions designed to limit a source's potential to emit, are federally enforceable, except those conditions imposed by the department that are not required under the Clean Air Act. The conditions imposed by the department that are not required under the Clean Air Act must be specifically designated as not being federally enforceable.

Source: 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:05:51. 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 recordkeeping 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 [construct 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.

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 Part 70 source, such as a timely and complete application, completeness review, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:23, inclusive.

74:36:05:52. 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 § 74:10:05:11.04 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.

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.

CHAPTER 74:36:07

NEW SOURCE PERFORMANCE STANDARDS

Section

- 74:36:07:01 New source performance standards.
- 74:36:07:02 Standards of performance for fossil fuel-fired steam generators.
- 74:36:07:03 Standards of performance for electric utility steam generators.
- 74:36:07:04 Standards of performance for industrial, commercial, and institutional steam generating units.
- 74:36:07:05 Standards of performance for small industrial, commercial, and institutional steam generating units.
- 74:36:07:06 Standards of performance for incinerators.
- 74:36:07:06.01 Standards of performance for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996.
- 74:36:07:06.02 Standards of performance for hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996.
- 74:36:07:07 Standards of performance for municipal waste combustors.

- 74:36:07:07.01 Standards of performance for municipal combustors constructed after September 20, 1994.
- 74:36:07:08 Ash disposal requirements.
- 74:36:07:09 Standards of performance for portland cement plants.
- 74:36:07:10 Standards of performance for asphalt concrete plants.
- 74:36:07:11 Repealed.
- 74:36:07:12 Standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978.
- 74:36:07:13 Standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984.
- 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.
- 74:36:07:15 Standards of performance for sewage treatment plants.
- 74:36:07:16 Standards of performance for coal preparation plants.
- 74:36:07:17 Standards of performance for grain elevators.
- 74:36:07:18 Standards of performance for stationary gas turbines.
- 74:36:07:19 Standards of performance for lime manufacturing plants.
- 74:36:07:20 Standards of performance for metallic mineral processing plants.
- 74:36:07:21 Standards of performance for pressure-sensitive tape and label surface coating operations.
- 74:36:07:22 Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry.

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.

- 74:36:07:23 Standards of performance for bulk gasoline terminals.
- 74:36:07:24 Standards of performance for new residential wood heaters.
- 74:36:07:25 Standards of performance for petroleum dry cleaners.
- 74:36:07:26 Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations.
- 74:36:07:27 Standards of performance for nonmetallic mineral processing plants.
- 74:36:07:28 Standards of performance for magnetic tape coating facilities.
- 74:36:07:29 Operating requirements for wire reclamation furnaces.
- 74:36:07:30 Monitoring requirements for wire reclamation furnaces.
- 74:36:07:31 Standards of performance for graphic arts industry -- Publication rotogravure printing.
- 74:36:07:32 Standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes.
- 74:36:07:33 Standards of performance for calciners and dryers in mineral industries.
- 74:36:07:34 Existing municipal solid waste landfill.
- 74:36:07:35 Plan submittal by existing municipal solid waste landfills.
- 74:36:07:36 Collection system.
- 74:36:07:37 Control system.
- 74:36:07:38 Compliance schedule for existing municipal solid waste landfills.

- 74:36:07:39 Existing municipal solid waste landfill operational standards for collection and control systems.
- 74:36:07:40 Existing municipal solid waste landfill compliance provisions.
- 74:36:07:41 Existing municipal solid waste landfill monitoring provisions.
- 74:36:07:42 Existing municipal solid waste landfill reporting and recordkeeping.
- 74:36:07:42.01 Additional reporting for existing municipal solid waste landfills.
- 74:36:07:43 Standards of performance for new municipal solid waste landfills.
- 74:36:07:44 Standards of performance for nitric acid plants.
- 74:36:07:45 Standards of performance for sulfuric acid plants.
- 74:36:07:46 Standards of performance for petroleum refineries.
- [74:36:07:46.01 Standards of performance for petroleum refineries for which construction, reconstruction, or modification commenced after May 14, 2007.](#)
- 74:36:07:47 Standards of performance for secondary lead smelters.
- 74:36:07:48 Standards of performance for secondary brass and bronze production plants.
- 74:36:07:49 Standards of performance for primary emissions from basic oxygen process furnaces for which construction commenced after June 11, 1973.
- 74:36:07:50 Standards of performance for secondary emissions from basic oxygen process steelmaking facilities for which construction commenced after January 20, 1983.
- 74:36:07:51 Standards of performance for primary copper smelter.
- 74:36:07:52 Standards of performance for primary zinc smelter.
- 74:36:07:53 Standards of performance for primary lead smelter.
- 74:36:07:54 Standards of performance for primary aluminum reduction plant.

- 74:36:07:55 Standards of performance for wet-process phosphoric acid plant.
- 74:36:07:56 Standards of performance for superphosphoric acid plant.
- 74:36:07:57 Standards of performance for diammonium phosphate plant.
- 74:36:07:58 Standards of performance for triple superphosphate plant.
- 74:36:07:59 Standards of performance for granular triple superphosphate storage facility.
- 74:36:07:60 Standards of performance for ferroalloy production plant.
- 74:36:07:61 Standards of performance for electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983.
- 74:36:07:62 Standards of performance for kraft pulp mills.
- 74:36:07:63 Standards of performance for glass manufacturing plant.
- 74:36:07:64 Standards of performance for surface coating of metal furniture.
- 74:36:07:65 Standards of performance for lead-acid battery manufacturing plant.
- 74:36:07:66 Standards of performance for automobile and light duty truck surface coating operations.
- 74:36:07:67 Standards of performance for phosphate rock plants.
- 74:36:07:68 Standards of performance for ammonium sulfate manufacture.
- 74:36:07:69 Standards of performance for industrial surface coating -- Large appliances.
- 74:36:07:70 Standards of performance for metal coil surface coating.
- 74:36:07:71 Standards of performance for asphalt processing and asphalt roofing manufacture.
- 74:36:07:72 Standards of performance for beverage can surface coating industry.
- 74:36:07:73 Standards of performance for rubber tire manufacturing industry.

- 74:36:07:74 Standards of performance for volatile organic compound emissions from polymer manufacturing industry.
- 74:36:07:75 Standards of performance for flexible vinyl and urethane coating and printing.
- 74:36:07:76 Standards of performance for equipment leaks of VOC in petroleum refineries.
- [74:36:07:76.01 Standards of performance for equipment leaks of VOC in petroleum refineries.](#)
- 74:36:07:77 Standards of performance for synthetic fiber production facility.
- 74:36:07:78 Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry air oxidation unit process.
- 74:36:07:79 Standards of performance for equipment leaks of VOC from onshore natural gas processing plant.
- 74:36:07:80 Standards of performance for onshore natural gas processing.
- 74:36:07:81 Standards of performance for wool fiberglass insulation manufacturing plant.
- 74:36:07:82 Standards of performance for VOC emissions from petroleum refinery wastewater system.
- 74:36:07:83 Standards of performance for industrial surface coating -- Surface coating of plastic parts for business machines.
- 74:36:07:84 Standards of performance for polymeric coating of supporting substrates facility.
- 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.

- 74:36:07:86 Standards of performance for commercial and industrial solid waste incineration units for which construction commenced after November 30, 1999, or modification or reconstruction commenced on or after June 1, 2001.
- 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.
- 74:36:07:88 Standards of performance for stationary compression ignition internal combustion engines.
- 74:36:07:89 Standards of performance for stationary combustion turbines.
- [74:36:07:90 Standards of performance for stationary spark ignition internal combustion engines.](#)

74:36:07:01. New source performance standards. The general provisions for new source performance standards are those in 40 C.F.R. §§ 60.1 to 60.19, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). For the purposes of this chapter, "administrator" means the secretary ~~of the department~~, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of the Environmental Protection Agency and the secretary ~~of the department~~.

Source: 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:08:43, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:02. Standards of performance for fossil fuel-fired steam generators. The standards of performance for fossil fuel-fired steam generators are those in 40 C.F.R. §§ 60.40 to 60.46, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:09:07, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:03. Standards of performance for electric utility steam generators. The standards of performance for electric utility steam generators are those in 40 C.F.R. §§ 60.40Da to 60.49Da, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:10:15, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:04. Standards of performance for industrial, commercial, and institutional steam generating units. The standards of performance for industrial, commercial, and institutional steam generating units are those in 40 C.F.R. §§ 60.40b to 60.49b, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:24:01, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:05. Standards of performance for small industrial, commercial, and institutional steam generating units. The standards of performance for small industrial,

commercial, and institutional steam generating units are those in 40 C.F.R. §§ 60.40c to 60.48c, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit, provided the source burns solely natural gas or propane and is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.40c to 60.48c \(July 1, 2009\).](#)

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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:06. Standards of performance for incinerators. The standards of performance for incinerators are those in 40 C.F.R. §§ 60.50 to 60.54, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:11:06, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:06.01. Standards of performance for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996. 40 C.F.R. Part 60, Subpart Ce (~~July 1, 2006~~ [July 1, 2009](#)), is incorporated into this rule by reference. Designated facilities under this subpart shall comply with the requirements for state plan approval in 40 C.F.R. §§ 60.32e to 60.38e, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

The owner or operator of a hospital/medical/infectious waste incinerator constructed on or before June 20, 1996, that decides to cease operation shall notify the department within six months of EPA's approval of the state plan for hospital/medical/infectious waste incinerators. The written notification shall inform the department of when the unit will be shutdown. The shutdown date may not exceed one year after EPA's approval of the state plan for hospital/medical/infectious waste incinerators.

The owner or operator of a hospital/medical/infectious waste incinerator constructed on or before June 20, 1996, that decides to comply with the requirements of this section shall submit a compliance plan within six months of state plan approval that meets the following deadlines:

(1) Submit a Part 70 operating permit application and design drawings of the air pollution control device to the department within one year of state plan approval;

(2) Submit a copy of the purchase order or other documentation indicating an order has been placed for the major components of the air pollution control device within 15 months of state plan approval;

(3) Begin initiation of site preparation for installation of the air pollution control device within 2 years after state plan approval;

(4) Complete installation of the air pollution control device within 30 months after state plan approval; and

(5) Conduct a performance test within 33 months after state plan approval.

The owner or operator shall comply with 40 C.F.R. §§ 60.34e and 60.36e (~~July 1, 2006~~ [July 1, 2009](#)) within one year after state plan approval. The owner or operator shall comply with the remaining requirements in this section within three years after state plan approval or by September 15, 2002, whichever is earlier.

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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:06.02. Standards of performance for hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996. The standards of performance for hospital/medical/infectious waste incinerators constructed after June 20, 1996, are those in 40 C.F.R. §§ 60.50c to 60.58c (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:07. Standards of performance for municipal waste combustors. The standards of performance for municipal waste combustors are those in 40 C.F.R. §§ 60.50a to 60.59a, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 17 SDR 69, effective November 22, 1990; 17 SDR 170, effective May 13, 1991; 18 SDR 90, effective November 24, 1991; transferred from § 74:26:26:01, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:07.01. Standards of performance for municipal combustors constructed after September 20, 1994. The standards of performance for municipal waste combustors constructed after September 20, 1994, or modified or reconstructed after June 19, 1996, are those in 40 C.F.R. §§ 60.50b to 60.59b, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

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.

74:36:07:09. Standards of performance for portland cement plants. The standards of performance for portland cement plants are those in 40 C.F.R. §§ 60.60 to 60.66, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:12:06, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:10. Standards of performance for asphalt concrete plants. The standards of performance for asphalt concrete plants are those in 40 C.F.R. §§ 60.90 to 60.93, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:13:05, 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.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:07:11. Additional permit requirements for asphalt plants. Repealed.

Source: 7SDR 4, effective July 27, 1980; transferred from § 44:10:01:29, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:01:29, 19 SDR 157, effective April 22, 1993; repealed, 25 SDR 123, effective April 4, 1999.

74:36:07:12. Standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978. The standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978, are those in 40 C.F.R. §§ 60.110 to 60.113, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.110 to 60.113 \(July 1, 2009\).](#)

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.

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. §§ 60.110a to 60.115a, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.110a to 60.115a \(July 1, 2009\).](#)

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.

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. §§ 60.110b to 60.117b, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.110b to 60.117b \(July 1, 2009\).](#)

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.

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. §§ 60.150 to 60.156, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.250 to 60.254, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.300 to 60.304, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit](#)

for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.300 to 60.304 (July 1, 2009).

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.

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. §§ 60.330 to 60.335, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.340 to 60.344, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.380 to 60.386, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.440 to 60.447, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.480 to 60.489, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. § Subpart VVa (July 1, 2009).

[Source:](#)

[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. §§ 60.500 to 60.506, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.530 to 60.539b, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.620 to 60.625, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). [A source subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. §§ 60.620 to 60.625 \(July 1, 2009\).](#)

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.

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. §§ 60.660 to 60.668, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.670 to 60.676, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.710 to 60.718, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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.

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. §§ 60.430 to 60.435, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.700 to 60.707, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.730 to 60.736, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

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.

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, 2006~~ [July 1, 2009](#)), 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.

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, 2006~~ [July 1, 2009](#)), 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.

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, 2006~~ [July 1, 2009](#));

(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.

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, 2006~~ [July 1, 2009](#)).

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.

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, 2006~~ [July 1, 2009](#)).

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.

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, 2006~~ [July 1, 2009](#)).

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.

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, 2006~~ [July 1, 2009](#)).

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.

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, 2006~~ [July 1, 2009](#)).

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.

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. §§ 60.751 to 60.759, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)). 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.

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. §§ 60.70 to 60.74, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.80 to 60.85, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.100 to 60.108, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2009](#)).

[Source:](#)

[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. §§ 60.120 to 60.123, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.130 to 60.133, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.140 to 60.144, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.140a to 60.145a, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.160 to 60.166, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.170 to 60.176, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.180 to 60.186, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.190 to 60.195, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.200 to 60.204, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.210 to 60.214, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.220 to 60.224, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.230 to 60.234, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.240 to 60.244, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.260 to 60.266, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.270a to 60.276a, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.280 to 60.285, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.290 to 60.296, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.310 to 60.316, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.370 to 60.374, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.390 to 60.398, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.400 to 60.404, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.420 to 60.424, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.450 to 60.456, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.460 to 60.466, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.470 to 60.474, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.490 to 60.496, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.540 to 60.548, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.560 to 60.566, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.580 to 60.585, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.590 to 60.593, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2009).

Source:

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. §§ 60.600 to 60.604, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.610 to 60.618, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.630 to 60.636, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.640 to 60.648, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.680 to 60.685, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.690 to 60.699, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.720 to 60.726, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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. §§ 60.740 to 60.748, inclusive, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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 III (~~July 1, 2006~~ [July 1, 2009](#)). [A source subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart III \(July 1, 2009\).](#)

Source: 33 SDR 217, effective June 13, 2007.

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, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

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, 2009). A source subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 60 Subpart JJJJ (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

CHAPTER 74:36:08

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Section

74:36:08:00 Administrator defined.

74:36:08:01 General provisions -- National emission standards for hazardous air pollutants.

74:36:08:02 Emission standards for asbestos air pollutants.

74:36:08:02.01 Emission standards for equipment leaks (fugitive emission sources) of benzene.

[74:36:08:02.02 Emission standards for benzene emissions from benzene storage vessels.](#)

[74:36:08:02.03 Emission standards for benzene emissions from benzene transfer operations.](#)

[74:36:08:02.04 Emission standards for benzene waste operations.](#)

74:36:08:03 General provisions -- National emission standards for hazardous air pollutants for source categories.

74:36:08:03.01 Requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j).

74:36:08:04 National perchloroethylene air emission standards for dry cleaning facilities.

74:36:08:05 National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry.

74:36:08:06 National emission standards for organic hazardous air pollutants from synthetic organic chemical manufacturing industry process vents, storage vessels, transfer operations, and wastewater.

74:36:08:07 National emission standards for organic hazardous air pollutants for equipment leaks.

74:36:08:08 National emission standards for organic hazardous air pollutants for certain processes subject to negotiated regulations for equipment leaks.

74:36:08:09 National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks.

74:36:08:10 National emission standards for ethylene oxide emissions from sterilization facilities.

74:36:08:11 National emission standards for industrial process cooling towers.

- 74:36:08:12 National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations).
- 74:36:08:13 National emission standards for halogenated solvent cleaning.
- 74:36:08:14 National emission standards for wood furniture manufacturing operations.
- 74:36:08:15 National emission standards for aerospace manufacturing.
- 74:36:08:16 National emission standards for tanks.
- 74:36:08:17 National emission standards for containers.
- 74:36:08:18 National emission standards for surface impoundments.
- 74:36:08:19 National emission standards for individual drain systems.
- 74:36:08:20 National emission standards for oil-water separators and organic-water separators.
- 74:36:08:20.01 National emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process.
- 74:36:08:20.02 National emission standards for equipment leaks.
- 74:36:08:21 National emission standards for hazardous air pollutants from the portland cement manufacturing industry.
- 74:36:08:22 National emission standards for hazardous air pollutants for pesticide active ingredient production.
- 74:36:08:23 National emission standards for the printing and publishing industry.
- 74:36:08:24 National emission standards for oil and natural gas production facilities.
- 74:36:08:25 National emission standards for natural gas transmission and storage facilities.
- 74:36:08:26 National emission standards for secondary aluminum production.
- 74:36:08:27 National emission standards for publicly owned treatment works.

- 74:36:08:28 National emission standards for solvent extraction for vegetable oil production.
- 74:36:08:29 National emission standards for paper and other web coating.
- 74:36:08:30 National emission standards for municipal solid waste landfills.
- 74:36:08:31 National emission standards for surface coating of metal furniture.
- 74:36:08:32 National emission standards for integrated iron and steel manufacturing facilities.
- 74:36:08:33 National emission standards for brick and structural clay products manufacturing.
- 74:36:08:34 National emission standards for asphalt processing and asphalt roofing manufacturing.
- 74:36:08:35 National emission standards for flexible polyurethane foam fabrication operations.
- 74:36:08:36 National emission standards for engine test cells/stands.
- 74:36:08:37 National emission standards for surface coating of miscellaneous metal parts and products.
- 74:36:08:38 National emission standards for reinforced plastic composites production.
- 74:36:08:39 National emission standards for stationary combustion turbines.
- 74:36:08:40 National emission standards for stationary reciprocating internal combustion engines.
- 74:36:08:41 National emission standards for industrial, commercial, and institutional boilers and process heaters.
- 74:36:08:42 National emission standards for polyvinyl chloride and copolymers production.
- 74:36:08:43 National emission standards for coke oven batteries.

- 74:36:08:44 National emission standards for pulp and paper industry.
- 74:36:08:45 National emission standards for group I polymers and resins.
- 74:36:08:46 National emission standards for epoxy resins production and non-nylon polyamides production.
- 74:36:08:47 National emission standards for secondary lead smelting.
- 74:36:08:48 National emission standards for phosphoric acid manufacturing plants.
- 74:36:08:49 National emission standards for phosphate fertilizers production plants.
- 74:36:08:50 National emission standards for petroleum refineries.
- 74:36:08:51 National emission standards for off-site waste and recovery operations.
- 74:36:08:52 National emission standards for magnetic tape manufacturing operations.
- 74:36:08:53 National emission standards for primary aluminum reduction plants.
- 74:36:08:54 National emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills.
- 74:36:08:55 National emission standards for ethylene manufacturing process units -- Heat exchange systems and waste operations.
- 74:36:08:56 Generic maximum achievable control technology standards.
- 74:36:08:57 National emission standards for steel pickling -- HCl process facilities and hydrochloric acid regeneration plants.
- 74:36:08:58 National emission standards for mineral wool production.
- 74:36:08:59 National emission standards for hazardous waste combustors.
- 74:36:08:60 National emission standards for pharmaceutical production.
- 74:36:08:61 National emission standards for group IV polymers and resins.
- 74:36:08:62 National emission standards for wool fiberglass production.

- 74:36:08:63 National emission standards for manufacture of amino/phenolic resins.
- 74:36:08:64 National emission standards for polyether polyols production.
- 74:36:08:65 National emission standards for primary copper smelting.
- 74:36:08:66 National emission standards for primary lead smelting.
- 74:36:08:67 National emission standards for petroleum refineries -- Catalytic cracking, catalytic reforming, and sulfur recovery units.
- 74:36:08:68 National emission standards for ferroalloy production -- Ferromanganese and silicomanganese.
- 74:36:08:69 National emission standards for the manufacture of nutritional yeast.
- 74:36:08:70 National emission standards for plywood and composite wood products.
- 74:36:08:71 National emission standards for non-gasoline organic liquids distribution.
- 74:36:08:72 National emission standards for miscellaneous organic chemical manufacturing.
- 74:36:08:73 National emission standards for wet-formed fiberglass mat production.
- 74:36:08:74 National emission standards for surface coating of automobiles and light duty trucks.
- 74:36:08:75 National emission standards for surface coating of metal cans.
- 74:36:08:76 National emission standards for surface coating of large appliances.
- 74:36:08:77 National emission standards for printing, coating, and dyeing of fabrics and other textiles.
- 74:36:08:78 National emission standards for surface coating of plastic parts and products.
- 74:36:08:79 National emission standards for surface coating of wood building products.
- 74:36:08:80 National emission standards for surface coating of metal coil.
- 74:36:08:81 National emission standards for leather finishing operations.

- 74:36:08:82 National emission standards for cellulose products manufacturing.
- 74:36:08:83 National emission standards for boat manufacturing.
- 74:36:08:84 National emission standards for rubber tire manufacturing.
- 74:36:08:85 National emission standards for lime manufacturing plants.
- 74:36:08:86 National emission standards for semiconductor manufacturing.
- 74:36:08:87 National emission standards for coke ovens -- Pushing, quenching, and battery stacks.
- 74:36:08:88 National emission standards for iron and steel foundries.
- 74:36:08:89 National emission standards for site remediation.
- 74:36:08:90 National emission standards for miscellaneous coating manufacturing.
- 74:36:08:91 National emission standards for mercury cell chlor-alkali plants.
- 74:36:08:92 National emission standards for clay ceramics manufacturing.
- 74:36:08:93 National emission standards for flexible polyurethane foam ~~fabrication~~ ~~operations~~ production.
- 74:36:08:94 National emission standards for hydrochloric acid production.
- 74:36:08:95 National emission standards for friction materials manufacturing facilities.
- 74:36:08:96 National emission standards for taconite iron ore processing.
- 74:36:08:97 National emission standards for refractory products manufacturing.
- 74:36:08:98 National emission standards for primary magnesium refining.
- 74:36:08:99 National emission standards for polyvinyl chloride and copolymers production area sources.
- 74:36:08:100 National emission standards for primary copper smelting area sources.
- 74:36:08:101 National emission standards for secondary copper smelting area sources.

74:36:08:102 National emission standards for primary nonferrous metals area sources -- Zinc, cadmium, and beryllium.

[74:36:08:103 National emission standards for hospital ethylene oxide sterilizers.](#)

[74:36:08:104 National emission standards for electric arc furnace steelmaking facility area sources.](#)

[74:36:08:105 National emission standards for iron and steel foundry area sources.](#)

[74:36:08:106 National emission standards for gasoline distribution bulk terminals, bulk plants, and pipeline facilities.](#)

[74:36:08:107 National emission standards for gasoline dispensing facilities.](#)

[74:36:08:108 National emission standards for paint stripping and miscellaneous surface coating area sources.](#)

[74:36:08:109 National emission standards for acrylic and modacrylic fiber production area sources.](#)

[74:36:08:110 National emission standards for carbon black production area sources.](#)

[74:36:08:111 National emission standards for chemical manufacturing area sources – chromium compounds.](#)

[74:36:08:112 National emission standards for flexible polyurethane foam production and fabrication area sources.](#)

[74:36:08:113 National emission standards for lead acid battery manufacturing area sources.](#)

[74:36:08:114 National emission standards for wood preserving area sources.](#)

[74:36:08:115 National emission standards for clay ceramic manufacturing area sources.](#)

[74:36:08:116 National emission standards for glass manufacturing area sources.](#)

[74:36:08:117 National emission standards for secondary nonferrous metal processing area sources.](#)

[74:36:08:118 National emission standards for plating and polishing area sources.](#)

[74:36:08:119 National emission standards for nine metal fabrication and finishing area sources.](#)

[74:36:08:120 National emission standards for ferroalloys production area sources.](#)

[74:36:08:121 National emission standards for aluminum, copper, and other nonferrous foundry area sources.](#)

74:36:08:00. Administrator defined. For the purposes of this chapter, "administrator" means the secretary, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of EPA and the secretary.

Source: 19 SDR 157, effective April 22, 1993; transferred from § 74:36:08:01, 21 SDR 119, effective January 5, 1995.

General Authority: SDCL 34A-1-6.

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

74:36:08:01. General provisions -- National emission standards for hazardous air pollutants. The general provisions for the national emission standards for hazardous air pollutants are those in 40 C.F.R. §§ ~~61.01 to 61.19, inclusive~~, 61, Subpart A (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:02. Emission standards for asbestos air pollutants. The emission standards for asbestos air pollutants are those in 40 C.F.R. § 61, Subpart M (~~July 1, 2006~~ [July 1, 2009](#)).

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; 18 SDR 95, effective December 2, 1991; transferred from § 74:26:22:02, 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; 26 SDR 168, effective July 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:02.01. Emission standards for equipment leaks (fugitive emission sources) of benzene. The emission standards for equipment leaks of benzene are those in 40 C.F.R. § ~~61.110 to 61.112, inclusive~~, 61, Subpart J (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:02.02. Emission standards for benzene emissions from benzene storage vessels. The emission standards for benzene emissions from benzene storage vessels are those in 40 C.F.R. § 61 Subpart Y (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:02.03. Emission standards for benzene emissions from benzene transfer operations. The emission standards for benzene emissions from benzene transfer operations are those in 40 C.F.R. § 61 Subpart BB (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

[74:36:08:02.04. Emission standards for benzene waste operations.](#) The emission standards for benzene waste operations equipment leaks of benzene are those in [40 C.F.R. § 61 Subpart FF \(July 1, 2009\).](#)

Source:

General Authority: [SDCL 34A-1-6.](#)

Law Implemented: [SDCL 34A-1-18.](#)

74:36:08:03. General provisions -- National emission standards for hazardous air pollutants for source categories. The general provisions for the national emission standards for hazardous air pollutants for source categories are those in 40 C.F.R. ~~Parts 63.1 to 63.15, inclusive,~~ [§ 63 Subpart A \(July 1, 2006 July 1, 2009\).](#)

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

General Authority: SDCL 34A-1-6.

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

74:36:08:03.01. Requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j). The provisions for control technology determinations for major sources in accordance with Clean Air Act sections

112(g) and 112(j) are those in 40 C.F.R. §§ ~~63.40, 63.41, and 63.42(e) to 63.56, inclusive,~~ [63 Subpart B](#) (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:04. National perchloroethylene air emission standards for dry cleaning facilities. The national perchloroethylene air emission standards for dry cleaning facilities are those in 40 C.F.R. §§ ~~63.320 to 63.325, inclusive,~~ [§ 63 Subpart M](#) (~~July 1, 2006~~ [July 1, 2009](#)). ~~Dry cleaning facilities that are considered area sources are not required to submit a Part 70 operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. §§ 63.320 to 63.325, inclusive, (July 1, 2006).~~ [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63 Subpart M \(July 1, 2009\).](#)

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

General Authority: SDCL 34A-1-6.

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

Cross-Reference: Complete application, § 74:36:05:09.

74:36:08:05. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry. The national emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry are those in 40 C.F.R. § 63, Subpart F (~~July 1, 2006~~ [July 1, 2009](#)).

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

General Authority: SDCL 34A-1-6.

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

74:36:08:06. National emission standards for organic hazardous air pollutants from synthetic organic chemical manufacturing industry process vents, storage vessels, transfer operations, and wastewater. The national emission standards for organic hazardous air pollutants from synthetic organic chemical manufacturing industry process vents, storage

vessels, transfer operations, and wastewater are those in 40 C.F.R. § 63, Subpart G (~~July 1, 2006~~ [July 1, 2009](#)).

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

General Authority: SDCL 34A-1-6.

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

74:36:08:07. National emission standards for organic hazardous air pollutants for equipment leaks. The national emission standards for organic hazardous air pollutants for equipment leaks are those in 40 C.F.R. § 63, Subpart H (~~July 1, 2006~~ [July 1, 2009](#)).

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

General Authority: SDCL 34A-1-6.

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

74:36:08:08. National emission standards for organic hazardous air pollutants for certain processes subject to negotiated regulations for equipment leaks. The national

emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulations for equipment leaks are those in 40 C.F.R. § 63, Subpart I (~~July 1, 2006~~ [July 1, 2009](#)).

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

General Authority: SDCL 34A-1-6.

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

74:36:08:09. National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks. The national emission standards for hard and decorative chromium electroplating and chromium anodizing tanks are those in 40 C.F.R. § 63, Subpart N (~~July 1, 2006~~ [July 1, 2009](#)). ~~An area source that falls under these requirements is not required to submit a Part 70 operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. § 63, Subpart N (July 1, 2006).~~ An area source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63 Subpart N (July 1, 2009).

~~Decorative chromium electroplating operations or chromium anodizing operations that use fume suppressants and decorative chromium electroplating operations that use a trivalent chromium bath that incorporates a wetting agent as a bath ingredient are exempt from the Part 70 operating permit program. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart N (July 1, 2006).~~

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.

General Authority: SDCL 34A-1-6.

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

Cross-Reference: Operating permits for part 70 sources, § 74:36:05.

74:36:08:10. National emission standards for ethylene oxide emissions from sterilization facilities. The national emission standards for ethylene oxide from sterilization facilities are those in 40 C.F.R. ~~§§ 63.360 to 63.367, inclusive,~~ [63, Subpart O \(July 1, 2006 July 1, 2009\)](#). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63 Subpart O (July 1, 2009).

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:11. National emission standards for industrial process cooling towers. The national emission standards for industrial process cooling towers are those in 40 C.F.R. § 63, Subpart Q (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63 Subpart Q \(July 1, 2009\).](#)

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:12. National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations). The national emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations) are those in 40 C.F.R. § 63, Subpart R (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:13. National emission standards for halogenated solvent cleaning. The national emission standards for halogenated solvent cleaning are those in 40 C.F.R. § 63, Subpart T (~~July 1, 2006~~ [July 1, 2009](#)). ~~An area source that falls under these requirements is not required to submit a Part 70 operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. § 63, Subpart T (July 1, 2006~~ [July 1, 2009](#)). An area source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart T (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:14. National emission standards for wood furniture manufacturing operations. The national emission standards for wood furniture manufacturing operations are those in 40 C.F.R. § 63, Subpart JJ (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:15. National emission standards for aerospace manufacturing. The national emission standards for aerospace manufacturing are those in 40 C.F.R. § 63 Subpart GG (~~July 1, 2006~~ [July 1, 2009](#)).

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.

General Authority: SDCL 34A-1-6.

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

74:36:08:16. National emission standards for tanks. The national emission standards for tanks -- level 1 are those in 40 C.F.R. ~~§§ 63.900 to 63.907, inclusive,~~ [§ 63 Subpart OO](#) (~~July 1, 2006~~ [July 1, 2009](#)). The national emission standards for tanks -- level 2 are those in 40 C.F.R. ~~§§ 63.1060 to 63.1066, inclusive,~~ [63, Subpart WW](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:17. National emission standards for containers. The national emission standards for containers are those in 40 C.F.R. ~~§§ 63.920 to 63.928, inclusive,~~ [63, Subpart PP](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:18. National emission standards for surface impoundments. The national emission standards for surface impoundments are those in 40 C.F.R. §§ ~~63.940 to 63.948, inclusive~~, [63, Subpart QQ](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:19. National emission standards for individual drain systems. The national emission standards for individual drain systems are those in 40 C.F.R. §§ ~~63.960 to 63.966, inclusive~~, [63, Subpart RR](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:20. National emission standards for oil-water separators and organic-water separators. The national emission standards for oil-water separators and organic-water separators are those in 40 C.F.R. §§ ~~63.1040 to 63.1049, inclusive,~~ [63, Subpart VV](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:20.01. National emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process. The national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process are those in 40 C.F.R. §§ ~~63.980 to 63.999, inclusive,~~ [63, Subpart SS](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:20.02. National emission standards for equipment leaks. The national emission standards for equipment leaks -- control level 1 are those in 40 C.F.R. §§ ~~63.1000 to 63.1018, inclusive,~~ [63, Subpart TT](#) (~~July 1, 2006~~ [July 1, 2009](#)). The national emission standards for equipment leaks -- control level 2 are those in 40 C.F.R. § 63, Subpart UU (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:21. National emission standards for hazardous air pollutants from the portland cement manufacturing industry. The national emission standards for the portland cement manufacturing industry are those in 40 C.F.R. § 63, Subpart LLL (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:22. National emission standards for hazardous air pollutants for pesticide active ingredient production. The national emission standards for pesticide active ingredient production are those in 40 C.F.R. § 63, Subpart MMM (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:23. National emission standards for the printing and publishing industry. The national emission standards for the printing and publishing industry are those in 40 C.F.R. § 63, Subpart KK (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:24. National emission standards for oil and natural gas production facilities. The national emission standards for oil and natural gas production facilities are those in 40 C.F.R. § 63, Subpart HH (~~July 1, 2006~~ [July 1, 2009](#)). [A source that operates a unit subject](#)

to this subpart is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart HH (July 1, 2009).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:25. National emission standards for natural gas transmission and storage facilities. The national emission standards for natural gas transmission and storage facilities are those in 40 C.F.R. § 63, Subpart HHH (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:26. National emission standards for secondary aluminum production. The national emission standards for secondary aluminum production are those in 40 C.F.R. § 63, Subpart RRR (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:27. National emission standards for publicly owned treatment works. The national emission standards for publicly owned treatment works are those in 40 C.F.R. § 63, Subpart VVV (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:28. National emission standards for solvent extraction for vegetable oil production. The national emission standards for solvent extraction of vegetable oil production are those in 40 C.F.R. §§ ~~63.2830 to 63.2872, inclusive,~~ [63, Subpart GGGG](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:29. National emission standards for paper and other web coating. The national emission standards for paper and other web coating are those in 40 C.F.R. §§ ~~63.3280 to 63.3420, inclusive,~~ [63, Subpart JJJJ](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:30. National emission standards for municipal solid waste landfills. The national emission standards for municipal solid waste landfills are those in 40 C.F.R. §§ ~~63.1930 to 63.1990, inclusive,~~ [63, Subpart AAAA](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 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.

General Authority: SDCL 34A-1-6.

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

74:36:08:31. National emission standards for surface coating of metal furniture. The national emission standards for surface coating of metal furniture are those in 40 C.F.R. §§ ~~63.4880 to 63.4981, inclusive,~~ [63, Subpart RRRR](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:32. National emission standards for integrated iron and steel manufacturing facilities. The national emission standards for integrated iron and steel manufacturing are those in 40 C.F.R. §§ ~~63.7780 to 63.7852, inclusive~~, [63, Subpart FFFFF](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:33. National emission standards for brick and structural clay products manufacturing. The national emission standards for brick and structural clay products manufacturing are those in 40 C.F.R. §§ ~~63.8380 to 63.8515, inclusive~~, [63, Subpart JJJJ](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:34. National emission standards for asphalt processing and asphalt roofing manufacturing. The national emission standards for asphalt processing and asphalt roofing manufacturing are those in 40 C.F.R. §§ ~~63.8680 to 63.8698, inclusive~~, [63, Subpart LLLLL](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:35. National emission standards for flexible polyurethane foam fabrication operations. The national emission standards for flexible polyurethane foam fabrication operations are those in 40 C.F.R. §§ ~~63.8780 to 63.8830, inclusive~~, [63, Subpart MMMMM](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:36. National emission standards for engine test cells/stands. The national emission standards for engine test cells/stands are those in 40 C.F.R. §§ ~~63.9280 to 63.9375, inclusive~~, [63, Subpart P P P P P](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:37. National emission standards for surface coating of miscellaneous metal parts and products. The national emission standards for surface coating of miscellaneous metal parts and products as published in 40 C.F.R. §§ ~~63.3880 to 63.3981, inclusive~~, [63, Subpart M M M M](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:38. National emission standards for reinforced plastic composites production. The national emission standards for reinforced plastic composites production are those in 40 C.F.R. §§ ~~63.5780 to 63.5935, inclusive~~, [63, Subpart W W W W](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:39. National emission standards for stationary combustion turbines. The national emission standards for stationary combustion turbines are those in 40 C.F.R. §§ ~~63.6080 to 63.6175, inclusive,~~ [63, Subpart YYYY](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:40. National emission standards for stationary reciprocating internal combustion engines. The national emission standards for stationary reciprocating internal combustion engines are those in 40 C.F.R. §§ ~~63.6580 to 63.6675, inclusive,~~ [63, Subpart ZZZZ](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:41. National emission standards for industrial, commercial, and institutional boilers and process heaters. The national emission standards for industrial, commercial, and institutional boilers and process heaters are those in 40 C.F.R. §§ ~~63.7480 to 63.7560, inclusive~~, [63, Subpart DDDDD](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

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

74:36:08:42. National emission standards for polyvinyl chloride and copolymers production. The national emission standards for polyvinyl chloride and copolymers production are those in 40 C.F.R. §§ ~~63.210 to 63.217, inclusive~~, [63, Subpart J](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:43. National emission standards for coke oven batteries. The national emission standards for coke oven batteries are those in 40 C.F.R. § 63, Subpart L, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:44. National emission standards for pulp and paper industry. The national emission standards for pulp and paper industry are those in 40 C.F.R. § 63, Subpart S, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:45. National emission standards for group I polymers and resins. The national emission standards for group I polymers and resins are those in 40 C.F.R. § 63, Subpart U, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:46. National emission standards for epoxy resins production and non-nylon polyamides production. The national emission standards for epoxy resins production and non-nylon polyamides production are those in 40 C.F.R. § 63, Subpart W, (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:47. National emission standards for secondary lead smelting. The national emission standards for secondary lead smelting are those in 40 C.F.R. §§ ~~63.541 to 63.551, inclusive,~~ [63, Subpart X](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:48. National emission standards for phosphoric acid manufacturing plants. The national emission standards for phosphoric acid manufacturing plants are those in 40 C.F.R. § 63, Subpart AA (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:49. National emission standards for phosphate fertilizers production plants. The national emission standards for phosphate fertilizers production plants are those in 40 C.F.R. § 63, Subpart BB (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:50. National emission standards for petroleum refineries. The national emission standards for petroleum refineries are those in 40 C.F.R. § 63, Subpart CC (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:51. National emission standards for off-site waste and recovery operations. The national emission standards for off-site waste and recovery operations are those in 40 C.F.R. § 63, Subpart DD (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:52. National emission standards for magnetic tape manufacturing operations. The national emission standards for magnetic tape manufacturing operations are those in 40 C.F.R. § 63, Subpart EE (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:53. National emission standards for primary aluminum reduction plants. The national emission standards for primary aluminum reduction plants are those in 40 C.F.R. § 63, Subpart LL (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:54. National emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills. The national emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills are those in 40 C.F.R. § 63, Subpart MM (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:55. National emission standards for ethylene manufacturing process units -- Heat exchange systems and waste operations. The national emission standards for heat exchange systems and waste operations are those in 40 C.F.R. § 63, Subpart XX (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:56. Generic maximum achievable control technology standards. The generic maximum achievable control technology standards are those in 40 C.F.R. §§ ~~63.1100 to 63.1114, inclusive,~~ [63, Subpart YY](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:57. National emission standards for steel pickling -- HC1 process facilities and hydrochloric acid regeneration plants. The national emission standards for HC1 process facilities and hydrochloric acid regeneration plants are those in 40 C.F.R. § 63, Subpart CCC (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:58. National emission standards for mineral wool production. The national emission standards for mineral wool production are those in 40 C.F.R. § 63, Subpart DDD (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:59. National emission standards for hazardous waste combusters. The national emission standards for hazardous waste combusters are those in 40 C.F.R. § 63, Subpart EEE (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:60. National emission standards for pharmaceutical production. The national emission standards for pharmaceutical production are those in 40 C.F.R. § 63, Subpart GGG (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:61. National emission standards for group IV polymers and resins. The national emission standards for group IV polymers and resins are those in 40 C.F.R. § 63, Subpart JJJ (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:62. National emission standards for wool fiberglass production. The national emission standards for wool fiberglass production are those in 40 C.F.R. § 63, Subpart NNN (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:63. National emission standards for manufacture of amino/phenolic resins.

The national emission standards for the manufacture of amino/phenolic resins are those in 40 C.F.R. § 63, Subpart OOO (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:64. National emission standards for polyether polyols production. The

national emission standards for polyether polyols production are those in 40 C.F.R. § 63, Subpart PPP (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:65. National emission standards for primary copper smelting. The national

emission standards for primary copper smelting are those in 40 C.F.R. § 63, Subpart QQQ (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:66. National emission standards for primary lead smelting. The national emission standards for primary lead smelting are those in 40 C.F.R. § 63, Subpart TTT (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:67. National emission standards for petroleum refineries -- Catalytic cracking, catalytic reforming, and sulfur recovery units. The national emission standards for catalytic cracking, catalytic reforming, and sulfur recovery units at petroleum refineries are those in 40 C.F.R. § 63, Subpart UUU (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:68. National emission standards for ferroalloy production -- Ferromanganese and silicomanganese. The national emission standards for ferromanganese and silicomanganese production are those in 40 C.F.R. § 63, Subpart XXX (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:69. National emission standards for the manufacture of nutritional yeast.

The national emission standards for the manufacture of nutritional yeast are those in 40 C.F.R. § 63, Subpart CCCC (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:70. National emission standards for plywood and composite wood products.

The national emission standards for plywood and composite wood products are those in 40 C.F.R. § 63, Subpart DDDD (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:71. National emission standards for non-gasoline organic liquids distribution. The national emission standards for non-gasoline organic liquids distribution are those in 40 C.F.R. § 63, Subpart EEEE (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:72. National emission standards for miscellaneous organic chemical manufacturing. The national emission standards for miscellaneous organic chemical manufacturing are those in 40 C.F.R. § 63, Subpart FFFF (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:73. National emission standards for wet-formed fiberglass mat production. The national emission standards for wet-formed fiberglass mat production are those in 40 C.F.R. § 63, Subpart HHHH (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:74. National emission standards for surface coating of automobiles and light duty trucks. The national emission standards for surface coating of automobiles and light duty trucks are those in 40 C.F.R. § 63, Subpart IIII (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:75. National emission standards for surface coating of metal cans. The national emission standards for surface coating of metal cans are those in 40 C.F.R. § 63, Subpart KKKK (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:76. National emission standards for surface coating of large appliances. The national emission standards for surface coating of large appliances are those in 40 C.F.R. § 63, Subpart NNNN (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:77. National emission standards for printing, coating, and dyeing of fabrics and other textiles. The national emission standards for printing, coating, and dyeing of fabrics and other textiles are those in 40 C.F.R. § 63, Subpart OOOO (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:78. National emission standards for surface coating of plastic parts and products. The national emission standards for surface coating of plastic parts and products are those in 40 C.F.R. § 63, Subpart PPPP (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:79. National emission standards for surface coating of wood building products. The national emission standards for surface coating of wood building products are those in 40 C.F.R. § 63, Subpart QQQQ (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:80. National emission standards for surface coating of metal coil. The national emission standards for surface coating of metal coil are those in 40 C.F.R. § 63, Subpart SSSS (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:81. National emission standards for leather finishing operations. The national emission standards for leather finishing operations are those in 40 C.F.R. § 63, Subpart TTTT (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:82. National emission standards for cellulose products manufacturing. The national emission standards for cellulose products manufacturing are those in 40 C.F.R. § 63, Subpart UUUU (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:83. National emission standards for boat manufacturing. The national emission standards for boat manufacturing are those in 40 C.F.R. § 63, Subpart VVVV (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:84. National emission standards for rubber tire manufacturing. The national emission standards for rubber tire manufacturing are those in 40 C.F.R. § 63, Subpart XXXX (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:85. National emission standards for lime manufacturing plants. The national emission standards for lime manufacturing plants are those in 40 C.F.R. § 63, Subpart AAAAA (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:86. National emission standards for semiconductor manufacturing. The national emission standards for semiconductor manufacturing are those in 40 C.F.R. § 63, Subpart BBBBB (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:87. National emission standards for coke ovens -- Pushing, quenching, and battery stacks. The national emission standards for coke ovens are those in 40 C.F.R. § 63, Subpart CCCCC (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:88. National emission standards for iron and steel foundries. The national emission standards for iron and steel foundries are those in 40 C.F.R. § 63, Subpart EEEEE (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:89. National emission standards for site remediation. The national emission standards for site remediation are those in 40 C.F.R. § 63, Subpart GGGGG (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:90. National emission standards for miscellaneous coating manufacturing. The national emission standards for miscellaneous coating manufacturing are those in 40 C.F.R. § 63, Subpart HHHHH (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:91. National emission standards for mercury cell chlor-alkali plants. The national emission standards for mercury cell chlor-alkali plants are those in 40 C.F.R. § 63, Subpart IIIII (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:92. National emission standards for clay ceramics manufacturing. The national emission standards for clay ceramics manufacturing are those in 40 C.F.R. § 63, Subpart KKKKK (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:93. National emission standards for flexible polyurethane foam ~~fabrication operations~~ [production](#). The national emission standards for flexible polyurethane foam ~~fabrication operations~~ [production](#) are those in 40 C.F.R. § 63, Subpart ~~MMMMM~~ [III](#) (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:94. National emission standards for hydrochloric acid production. The national emission standards for hydrochloric acid production are those in 40 C.F.R. § 63, Subpart NNNNN (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:95. National emission standards for friction materials manufacturing facilities. The national emission standards for friction materials manufacturing facilities are those in 40 C.F.R. § 63, Subpart QQQQQ (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:96. National emission standards taconite iron ore processing. The national emission standards for taconite iron ore processing are those in 40 C.F.R. § 63, Subpart RRRRR (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:97. National emission standards for refractory products manufacturing.

The national emission standards for refractory products manufacturing are those in 40 C.F.R. § 63, Subpart SSSSS (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:98. National emission standards for primary magnesium refining. The

national emission standards for primary magnesium refining are those in 40 C.F.R. § 63, Subpart TTTTT (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:99. National emission standards for polyvinyl chloride and copolymers

production area sources. The national emission standards for polyvinyl chloride and copolymers production area sources are those in 40 C.F.R. § 63, Subpart DDDDDD (~~July 1,~~

~~2006~~ [July 1, 2009](#)). [A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart DDDDDD \(July 1, 2009\).](#)

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:100. National emission standards for primary copper smelting area sources.

The national emission standards for primary copper smelting area sources are those in 40 C.F.R. § 63, Subpart EEEEEEE (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:101. National emission standards for secondary copper smelting area sources. The national emission standards for secondary copper smelting area sources are those in 40 C.F.R. § 63, Subpart FFFFFFFF (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:102. National emission standards for primary nonferrous metals area sources -- Zinc, cadmium, and beryllium. The national emission standards for primary nonferrous metals area sources are those in 40 C.F.R. § 63, Subpart GGGGGG (~~July 1, 2006~~ [July 1, 2009](#)).

Source: 33 SDR 217, effective June 13, 2007.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:103. National emission standards for hospital ethylene oxide sterilizers. The national emission standards for hospital ethylene oxide sterilizers are those in 40 C.F.R. § 63, Subpart WWWW (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart WWWW (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:104. National emission standards for electric arc furnace steelmaking facility area sources. The national emission standards for area sources – electric arc furnace steelmaking facilities are those in 40 C.F.R. § 63, Subpart YYYYYY (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:105. National emission standards for iron and steel foundry area sources. The national emission standards for iron and steel foundry area sources are those in 40 C.F.R. § 63, Subpart ZZZZZ (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart ZZZZZ (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:106. National emission standards for gasoline distribution bulk terminals, bulk plants, and pipeline facilities. The national emission standards for gasoline distribution

bulk terminals, bulk plants, and pipeline facilities are those in 40 C.F.R. § 63, Subpart BBBBBB (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart BBBBBB (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:107. National emission standards for gasoline dispensing facilities. The national emission standards for gasoline dispensing facilities are those in 40 C.F.R. § 63, Subpart CCCCCC (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart CCCCCC (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:108. National emission standards for paint stripping and miscellaneous surface coating area sources. The national emission standards for paint stripping and miscellaneous coating area sources are those in 40 C.F.R. § 63, Subpart HHHHHH (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart HHHHHH (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:109. National emission standards for acrylic and modacrylic fiber production area sources. The national emission standards for acrylic and modacrylic fiber production area sources are those in 40 C.F.R. § 63, Subpart LLLLLL (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart LLLLLL (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:110. National emission standards for carbon black production area sources.

The national emission standards for carbon black production area sources are those in 40 C.F.R. § 63, Subpart MMMMMM (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:111. National emission standards for chemical manufacturing area sources

– chromium compounds. The national emission standards for chemical manufacturing area sources – chromium compounds are those in 40 C.F.R. § 63, Subpart NNNNNN (July 1, 2009).
A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart NNNNNN (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:112. National emission standards for flexible polyurethane foam production

and fabrication area sources. The national emission standards for flexible polyurethane foam

production and fabrication area sources are those in 40 C.F.R. § 63, Subpart OOOOOO (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart OOOOOO (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:113. National emission standards for lead acid battery manufacturing area sources. The national emission standards for lead acid battery manufacturing area sources are those in 40 C.F.R. § 63, Subpart PPPPPP (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart PPPPPP (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:114. National emission standards for wood preserving area sources. The national emission standards for wood preserving area sources are those in 40 C.F.R. § 63, Subpart QQQQQQ (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart QQQQQQ (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:115. National emission standards for clay ceramic manufacturing area sources. The national emission standards for clay ceramic manufacturing area sources are those in 40 C.F.R. § 63, Subpart RRRRRR (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart RRRRRR (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:116. National emission standards for glass manufacturing area sources. The national emission standards for glass manufacturing area sources are those in 40 C.F.R. § 63, Subpart SSSSSS (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:117. National emission standards for secondary nonferrous metal processing area sources. The national emission standards for secondary nonferrous metal processing area sources are those in 40 C.F.R. § 63, Subpart TTTTTT (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart TTTTTT (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:118. National emission standards for plating and polishing area sources. The national emission standards for plating and polishing area sources are those in 40 C.F.R.

§ 63, Subpart WWWWWW (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart WWWWWW (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:119. National emission standards for nine metal fabrication and finishing area sources. The national emission standards for nine fabrication and finishing area sources are those in 40 C.F.R. § 63, Subpart XXXXXX (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart XXXXXX (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:120. National emission standards for ferroalloys production area sources.

The national emission standards for ferroalloys production area sources are those in 40 C.F.R. § 63, Subpart YYYYYY (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart YYYYYY (July 1, 2009).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.

74:36:08:121. National emission standards for aluminum, copper, and other nonferrous foundry area sources. The national emission standards for aluminum, copper, and other nonferrous foundry area sources are those in 40 C.F.R. § 63, Subpart ZZZZZZ (July 1, 2009). A source that operates a unit subject to this subpart is exempt from the obligation to obtain a Part 70 operating permit provided the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to this subpart. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart ZZZZZZ (July 1, 2009).

Source:

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, 2005~~ [July 1, 2009](#)), except for 40 C.F.R. § 52.21(a)(1), (a)(2)(iv)(e), (a)(2)(vi), (b)(2)(iii)(h), (b)(3)(iii)(b), (b)(3)(vi)(d), (b)(32), (b)(42), (b)(55), (b)(56), (b)(57), (b)(58), (f), (q), (s), (t), (u), (x), (y), (z), and (cc) (~~July 1, 2005~~ [July 1, 2009](#)) 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) to 52.21(w)(4), inclusive, 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) to 52.21(g)(6), inclusive; 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(a)(2)(iv)(f) is incorporated by reference excluding the last sentence which states, "For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in paragraph (a)(2)(iv)(c) of this section for the existing unit and using the method specified in paragraph (a)(2)(iv)(e) of this section for the Clean Unit";

(5) 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(s) that meets the requirements of the equipment replacement provisions contained in paragraph (cc) of this section";

(6) For the purposes of this section, 40 C.F.R. § 52.21(r)(6) is incorporated by reference excluding the phrase, "(other than projects at a Clean Unit or at a source with a PAL)";

(7) 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"; and

(8) For the purposes of this section, 40 C.F.R. § 52.21(w)(1) is incorporated by reference excluding the phrase, "expires under paragraph (s) of this section or".

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.

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, 2005~~ [July 1, 2009](#)), 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.

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

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) (~~July 1, 2003~~ [July 1, 2009](#)).

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.

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 and a pollution control project exclusion, 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) to (F), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005.

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 to 74:36:05:20.01, inclusive.

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 (LAER);

(3) Certification of compliance that all other major sources, major modifications, or 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 use a clean unit test as described in § 74:36:10:09 or 74:36:10:10 to determine whether emission increases at a clean unit are part of a project that is a major modification.

The owner or operator may apply for a pollution control project exclusion. The procedures for a pollution control project exclusion are those in 40 C.F.R. § 51.165(e)(1) to (e)(6), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)).

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, 2003~~ [July 1, 2009](#)).

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.

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

	Annual	24	Averaging time (hours)		
			8	3	1
(1) SO ₂ :	1.0 ug/m ³	5 ug/m ³	-	25 ug/m ³	-

(2) PM10:	1.0 ug/m3	5 ug/m3	-	-	-
(3) NO2:	1.0 ug/m3	-	-	-	-
(4) CO	-	-	0.5 mg/m3	-	2 mg/m3

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.

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 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;

(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, 2003~~ [July 1, 2009](#));

(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, 2003~~ [July 1, 2009](#)), 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;

(9) Decreases in actual emissions resulting from the installation of add-on control technology or application of pollution prevention measures that were relied upon in designating an emissions unit as a clean unit or a project as a pollution control project may not be used as offset;

(10) Decreases in actual emissions occurring at a clean unit may not be used as offsets, except as provided in 40 C.F.R. § 51.165(c)(8) and (d)(10) (~~July 1, 2003~~ [July 1, 2009](#)). Similarly, decreases in actual emissions occurring at a pollution control project may not be used as offsets, except as provided in 40 C.F.R. § 51.165(e)(6)(iv) (~~July 1, 2003~~ [July 1, 2009](#)); and

(11) 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.

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) to (v), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)). This section does not apply to projects at a clean unit or at 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) to (v), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)) 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, 2003~~ [July 1, 2009](#)).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005.

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. A clean unit test may be used to determine whether an emission increase at a clean unit is part of a project that is a major modification according to the provisions in 40 C.F.R. § 51.165(c)(1) to (c)(9), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:10. Clean unit test for emission units comparable to lowest achievable emission rate. A clean unit test may be used to determine whether an emission increase at a clean unit is part of a project that is a major modification for a clean unit that does not qualify as a clean unit under § 74:36:10:09, but is achieving a level of emission control comparable to

lowest achievable emission rate as determined by the secretary in accordance with the provisions in 40 C.F.R. § 51.165(d)(2) to (d)(11), inclusive, (~~July 1, 2003~~ [July 1, 2009](#)).

Source: 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005.

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

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, 2005~~ [July 1, 2009](#)).

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.

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, 2005~~ [July 1, 2009](#)).

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.

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 such operations as soot blowing, start-up, shutdown, 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.

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, 2005~~ [July 1, 2009](#)).

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.

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, 2005~~ [July 1, 2009](#)).

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.

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, 2005~~ [July 1, 2009](#)). 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.

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, 2005~~ [July 1, 2009](#)) or this article that are detected through continuous emission monitoring systems (CEMS) 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.

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, 2005~~ [July 1, 2009](#)) 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.

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, 2005~~ [July 1, 2009](#)) 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, 2005~~ [July 1, 2009](#));

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

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.

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, 2005~~ [July 1, 2009](#)), must comply with 40 C.F.R. §§ 64.1 and 64.3 to 64.10, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)).

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.

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

Law Implemented: SDCL 34A-1-12.

CHAPTER 74:36:14

VARIANCES

(Repealed. 23 SDR 106, effective December 29, 1996)

CHAPTER 74:36:15

OPEN BURNING

Section

74:36:15:01 Transferred.

74:36:15:02 and 74:36:15:03 Repealed.

74:36:15:01. Transferred to § 74:36:06:07.

74:36:15:02. Open burning practices permissible. Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:04:03, 34:10:04:04, 34:10:04:06, 34:10:04:07, 34:01:04:08, 34:10:04:08.01, and 34:10:04:12, 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:04:03, 44:10:04:04, 44:10:04:06, 44:10:04:07, 44:01:04:08, 44:10:04:09, and 44:10:04:13, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from §§ 74:26:04:03, 74:26:04:04, 74:26:04:06, 74:26:04:07, 74:26:04:08, 74:26:04:09, and 74:26:04:13, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 23 SDR 106, effective December 29, 1996.

74:36:15:03. Refuse burning in rural areas -- Conditions -- Restrictions. Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:04:09, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:04:10, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:04:10, 19 SDR 157, effective April 22, 1993; repealed, 23 SDR 106, effective December 29, 1996.

CHAPTER 74:36:16

ACID RAIN PROGRAM

Section

- 74:36:16:01 General provisions.
- 74:36:16:02 Allowance system.
- 74:36:16:03 Reserved.
- 74:36:16:04 Continuous emission monitoring.
- 74:36:16:05 Nitrogen oxides emission reduction.

74:36:16:01. General provisions. The following provisions are incorporated by reference: 40 C.F.R. §§ 72.2 to 72.85, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)) except for the following definitions in § 72.2: Environmental Appeals Board, EPA trial staff, ex parte communication, hearing clerk, presiding officer, and state operating permit program and except for §§ 72.4, 72.5, 72.6(c), 72.10, 72.12, 72.13, 72.20, 72.23 to 72.25, inclusive, 72.60 to 72.71,

inclusive, 72.73, and 72.74. For the purposes of this chapter, "administrator" means the secretary ~~of the department~~, except for those authorities which cannot be delegated to the state, in which case "administrator" means the administrator of the Environmental Protection Agency.

Source: 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.

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

Law Implemented: SDCL 34A-1-18.

74:36:16:02. Allowance system. The allowance system for the acid rain program is that in 40 C.F.R. §§ 73.1 to 73.53, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)).

Source: 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.

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

Law Implemented: SDCL 34A-1-18.

74:36:16:03. Reserved.

74:36:16:04. Continuous emission monitoring. The continuous emission monitoring requirements for the acid rain program are those in 40 C.F.R. §§ 75.1 to 75.67, inclusive, (~~July 1,~~

~~2005~~ [July 1, 2009](#)) and Appendixes A to H, inclusive, to 40 C.F.R. Part 75 (~~July 1, 2005~~ [July 1, 2009](#)).

Source: 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 24, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006.

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

Law Implemented: SDCL 34A-1-18.

74:36:16:05. Nitrogen oxides emission reduction. The nitrogen oxides emission reduction requirements for the acid rain program are those in 40 C.F.R. §§ 76.1 to 76.16, inclusive, (~~July 1, 2005~~ [July 1, 2009](#)).

Source: 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.

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

Law Implemented: SDCL 34A-1-18.

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.

General Authority: SDCL 34A-1-6, 34A-1-21, 34A-1-24.

Law Implemented: SDCL 34A-1-21, 34A-1-24.

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.

General Authority: SDCL 34A-1-6, 34A-1-21, 34A-1-24.

Law Implemented: SDCL 34A-1-21, 34A-1-24.

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) Recordkeeping 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.

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

Law Implemented: SDCL 34A-1-21, 34A-1-30.

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 Tennessee Visual Emissions Method 1, as approved by EPA in~~

~~40 C.F.R. § 52.2220 (July 1, 2001)~~ [The Environmental Protection Agency's Method 9 in 40 C.F.R Part 60 Appendix A \(July 1, 2009\)](#) shall be used to determine the opacity.

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

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.

General Authority: SDCL 34A-1-6, 34A-1-19, 34A-1-24.

Law Implemented: SDCL 34A-1-12, 34A-1-19, 34A-1-24.

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.

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

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-30.

CHAPTER 74:36:19

MERCURY BUDGET TRADING PROGRAM

[\(Repealed\)](#)

Section

~~74:36:19:01 — General provisions.~~

~~74:36:19:02 — Designated representative.~~

~~74:36:19:03 — Permits.~~

~~74:36:19:04 — Annual allocation of mercury allowances.~~

~~74:36:19:05 — Submitting mercury allowance allocations to the administrator.~~

~~74:36:19:06 — Baseline heat input.~~

~~74:36:19:07 — Allowance allocations for existing units.~~

~~74:36:19:08 — New unit set aside account.~~

~~74:36:19:09 — Allocation of mercury allowances from new unit set aside account.~~

~~74:36:19:10 — Mercury reduction account.~~

~~74:36:19:11 — Allocation of mercury allowances from mercury reduction account.~~

~~74:36:19:12 — Approval of mercury allowances from new unit set aside account and mercury reduction account.~~

~~74:36:19:13 — Allowance tracking system.~~

~~74:36:19:14 — Allowance transfer.~~

~~74:36:19:15 — Monitoring and reporting.~~

~~**74:36:19:01. General provisions.** The following general provisions are incorporated by reference: 40 C.F.R. §§ 60.4102 to 60.4108, inclusive (July 1, 2005).~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~**74:36:19:02. Designated representative.** The following designated representative provisions are incorporated by reference: 40 C.F.R. §§ 60.4110 to 60.4114, inclusive (July 1, 2005).~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

Law Implemented: SDCL 34A-1-18.

~~74:36:19:03. Permits. The following permit provisions are incorporated by reference: 40 C.F.R. §§ 60.4120 to 60.4124, inclusive (July 1, 2005).~~

~~Source:~~ 33 SDR 43, effective September 18, 2006.

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

~~Law Implemented:~~ SDCL 34A-1-18.

~~74:36:19:04. Annual allocation of mercury allowances. The annual allocations of mercury allowances for the control period in 2010 through 2017 is 2,304 ounces per year and for 2018 and thereafter, is 928 ounces per year.~~

~~Source:~~ 33 SDR 43, effective September 18, 2006.

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

~~Law Implemented:~~ SDCL 34A-1-18.

~~74:36:19:05. Submitting mercury allowance allocations to the administrator. The timing requirements for submitting the mercury allowance allocations in accordance with §§ 74:36:19:07, 74:36:19:09, and 74:36:19:11 to the Administrator of EPA are incorporated by reference: 40 C.F.R. § 60.4141 (July 1, 2005).~~

~~Source:~~ 33 SDR 43, effective September 18, 2006.

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

Law Implemented: SDCL 34A-1-18.

~~74:36:19:06. **Baseline heat input.** The baseline heat input, in million Btus, used with respect to mercury allowance allocations for each mercury budget unit are incorporated by reference: 40 C.F.R. § 60.4142(a) (July 1, 2005).~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~74:36:19:07. **Allowance allocations for existing units.** The total amount of mercury allowances for existing units shall equal 90 percent of the annual mercury allocations in § 74:36:19:04 for control period in 2010 through 2014, and 92 percent for control period in 2015 and thereafter. An existing unit is defined as a mercury budget unit that has established a baseline heat input in accordance with § 74:36:19:06. If there is more than one existing unit, the amount of mercury allowance is determined for each existing unit by multiplying the total amount of mercury allowances by the ratio of the baseline heat input of the existing unit to the total amount of baseline heat input of all such existing units and rounding to the nearest whole allowance as appropriate.~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

Law Implemented: SDCL 34A-1-18.

~~74:36:19:08. New unit set aside account.~~ For each control period in 2010 and thereafter, the secretary shall establish a new unit set aside account for mercury allowances. The mercury allowances for the new unit set aside account shall equal five percent of the annual mercury allocations in § 74:36:19:04 for control period in 2010 through 2014, and four percent for control period in 2015 and thereafter.

Source: 33 SDR 43, effective September 18, 2006.

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

Law Implemented: SDCL 34A-1-18.

~~74:36:19:09. Allocation of mercury allowances from new unit set aside account.~~ Mercury allowances from the new unit set aside account are available to a new unit. A new unit is defined as a mercury budget unit that has not established a baseline heat input in accordance with § 74:36:19:06. A new unit is eligible for mercury allowances from the new unit set aside account until the first control period for which the new unit is allocated mercury allowances under § 74:36:19:07. The mercury designated representative of a new unit may submit a request to have mercury allowances from the new unit set aside account transferred to the mercury allowance tracking system compliance account for the new unit starting with the later of the control period in 2010 or the first control period after the control period in which the new unit commences commercial operation. The mercury allowance transfer request must be submitted on or before July 1 of the control period in which the mercury allowances are requested. The

~~mercury designated representative may request mercury allowances in an amount not exceeding the new unit's total ounces of mercury emissions for the control period in which the mercury allowances are requested. If the request(s) exceed the mercury allowances available in the new unit set aside account for that control period, the amount of mercury allowance shall be determined for each new unit by multiplying the total amount of mercury allowances by the ratio of the total ounces of mercury emissions during the control period from each request to the total ounces of mercury emission of all such requests and rounding to the nearest whole allowance as appropriate. Any unallocated mercury allowances remaining in the new unit set aside account for the control period shall be banked for future use.~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~**74:36:19:10. Mercury reduction account.** For each control period in 2010 and thereafter, the secretary shall establish a mercury reduction account for mercury allowances. The mercury allowances for the mercury reduction account shall equal five percent of the annual mercury allocations in § 74:36:19:04 for control period in 2010 through 2014, and four percent for control period in 2015 and thereafter.~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~74:36:19:11. Allocation of mercury allowances from mercury reduction account.~~

~~Mercury allowances from the mercury reduction account are available to an existing unit or new unit that achieves best mercury controls. Best mercury controls means the mercury controls for an existing unit or new unit achieve greater than or equal to 90 percent control of the mercury emissions from the unit. An existing unit or new unit that achieves best mercury control is eligible for the mercury allowances from the mercury reduction account for up to five consecutive control periods. The mercury designated representative of an existing unit and/or new unit may submit a request to have mercury allowances from the mercury reduction account transferred to the mercury allowance tracking system compliance account for the existing unit and/or new unit starting with the later of the control period in 2010 or the first control period after the control period in which best mercury controls has been demonstrated. The mercury allowance transfer request must be submitted on or before February 1 after the control period in which the mercury allowances are requested. If the request(s) exceed the mercury allowances available in the control period, the amount of mercury allowance shall be determined for each existing unit and/or new unit by multiplying the total amount of mercury allowances by the ratio of the mercury control efficiency for a request to the summation of control efficiencies of all such requests and rounding to the nearest whole allowance as appropriate. Any unallocated mercury allowances remaining in the mercury reduction account for the control period shall be banked for future use.~~

Source: 33 SDR 43, effective September 18, 2006.

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

Law Implemented: SDCL 34A-1-18.

~~74:36:19:12. Approval of mercury allowances from new unit set aside account and mercury reduction account. The department will review each mercury allowance request from the new unit set aside account and mercury reduction account and transfer mercury allowances to the mercury allowance tracking system compliance account for each control period pursuant to such requests as follows:~~

~~(1) The department will accept an allowance allocation request for the new unit set aside account only if the request meets, or is adjusted by the department as necessary to meet, the requirements of § 74:36:19:09;~~

~~(2) The department will accept an allowance allocation request for the mercury reduction account only if the request meets, or is adjusted by the department as necessary to meet, the requirements of § 74:36:19:11;~~

~~(3) The department will determine the sum of the mercury allowances requested, as adjusted in accordance with §§ 74:36:19:09 and 74:36:19:11, for the control period and transfer the mercury allowances to the appropriate mercury allowance tracking system compliance account by October 31 of the year for which the mercury allowances are allocated; and~~

~~(4) The department will notify each mercury designated representative that submitted an allowance allocation request of the amount of mercury allowances that are transferred to the mercury designated representatives mercury allowance tracking system compliance account for the control period covered by the request.~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~**74:36:19:13. Allowance tracking system.** The following allowance tracking system provisions are incorporated by reference: 40 C.R.R. §§ 60.4151 to 60.4157, inclusive (July 1, 2005).~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~**74:36:19:14. Allowance transfers.** The following allowance transfer provisions are incorporated by reference: 40 C.F.R. §§ 60.4160 to 60.4162, inclusive (July 1, 2005).~~

~~**Source:** 33 SDR 43, effective September 18, 2006.~~

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

~~**Law Implemented:** SDCL 34A-1-18.~~

~~**74:36:19:15. Monitoring and reporting.** The following monitoring and reporting provisions are incorporated by reference: 40 C.F.R. §§ 60.4170 to 60.4176, inclusive (July 1, 2005).~~

~~Source: 33 SDR 43, effective September 18, 2006.~~

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

~~Law Implemented: SDCL 34A-1-18.~~

CHAPTER 74:36:20

CONSTRUCTION PERMITS FOR NEW SOURCES OR MODIFICATIONS

74:36:20:01 Applicability.

74:36:20:02 Construction permit required.

74:36:20:03 Construction permit exemption.

74:36:20:04 Emission unit exemptions.

74:36:20:05 Standard for issuance of construction permit.

74:36:20:06 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 on 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:](#)

[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 which 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.

[Source:](#)

[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 § 74:36:09;

(2) A new source or modification to an existing source meeting the requirements of § 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 in §§ 74:36:04:02.01 and 74:36:05:04.

Source:

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 §§ 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 if 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 if the source is required to obtain a construction permit.

Source:

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. Compliance with this requirement as determined by air pollution dispersion modeling shall not be 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, 2009). Each new source or modification to an existing source must comply with emission limits and other requirements of the act and Clean Air Act. The construction permit must include reasonable conditions, including adherence to plans and specifications, to assure compliance with the act, Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

Source:

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

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 submit 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, 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) If available, 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) 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 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.

Source:

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 prior to the release of the draft permit.

Source:

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:

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 assure compliance with the act or 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:

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; 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:

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

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-30.

74:36:20:12. Public review of 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 § 74:36:20:13. 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:

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 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:

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34

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:

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

Law Implemented: SDCL 1-26-27, 1-26-29, 34A-1-21, 34A-1-30, 34A-1-34.

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 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 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:

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

Law Implemented: SDCL 34A-1-21, 34A-1-30.

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 the revision qualifies as an administrative permit amendment.

Source:

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 if 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:

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 assure compliance with the applicable requirements of this article and the Clean Air Act.

Source:

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 exist.

Source:

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 § 74:36:04 or § 74:36:05 and to comply with the applicable emission limitations or requirement of the Clean Air Act.

Source:

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 it terminates that applicant authority to commence construction or complete construction of the new source or modification to an existing source.

Source:

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 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:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 1-26-20, 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, that an enforcement hearing be scheduled pursuant to the provisions of chapter 74:09:01, or that the construction permit be suspended or revoked for noncompliance.

Source:

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 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:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-18.