



## Board of Minerals and Environment

523 East Capitol Avenue  
Pierre, South Dakota 57501-3182  
(605)773-3151 Fax: (605)773-4068

### AGENDA

Board of Minerals and Environment  
via Digital Dakota Network (DDN)

#### **A list of DDN sites is attached**

July 20, 2017  
10:00 a.m. Central Time

Live audio of the meeting can be heard at <http://www.sd.net>

**Scheduled times are estimates. Agenda items may be  
delayed or moved up due to prior scheduled items.**

- 10:00 a.m. Call to order and roll call
- Approval of minutes from May 18, 2017, meeting
- Public hearing to consider amendments to ARSD 74:28, Hazardous Waste rules – Carrie Jacobson
- 10:15 a.m. Public hearing to consider amendments to ARSD 74:36, Air Pollution Control Program rules – Marlys Heidt
- 10:30 a.m. Mining issues  
Consent Calendar – Tom Cline
- Financial assurance increase for Wharf Resources (USA), Inc. – Eric Holm
- Request for approval of Dr. Michael K. Madden as American Colloid Company’s socio-economic contractor for a large-scale bentonite mine permit – Eric Holm
- Annual Update of Preliminary List of Special, Exceptional, Critical, or Unique Lands – Eric Holm
- Next meeting
- Election of officers
- Adjourn

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources by calling (605) 773-4216 at least 48 hours before the meeting if you have a disability for which special arrangements must be made.

Board members are reminded that effective July 1, 2016, members are subject to SDCL 3-23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.



**Board of Minerals  
and Environment**

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Pierre, South Dakota 57501-3182  
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AGENDA

**Board of Minerals and Environment Meeting**

**Thursday, July 20, 2017  
10:00 A.M. Central Daylight Time**

**Digital Dakota Network Sites**

**BROOKINGS**

South Dakota State University  
8th & Medary Ave.  
Pugsley Center, Room 203

**PIERRE**

Capitol Building  
500 E. Capitol Avenue  
Room B12, Studio A

**RAPID CITY**

University Center  
4300 Cheyenne Blvd.  
Room 113

**SIOUX FALLS**

University Center  
4801 N. Career Avenue  
Room FADM 145

**SPEARFISH**

Black Hills State University  
1200 University Street  
E.Y. Berry Library, Room LIB0011

**VERMILLION**

University of South Dakota  
414 East Clark  
Delzell Education Center, Room 203

**WATERTOWN**

Department of Environment and Natural Resources  
2001 9th Avenue SW  
Suite 500

The audio recording for this meeting is available on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=67>

Minutes of the  
Board of Minerals and Environment  
Matthew Environmental Education and Training Center  
523 East Capitol Avenue  
Pierre, South Dakota

May 18, 2017  
10:00 a.m. CT

CALL TO ORDER: The meeting was called to order by Chairman Rex Hagg. He appointed Gregg Greenfield as secretary pro tem. The roll was called and Chairman Hagg declared that a quorum was present.

BOARD MEMBERS PRESENT: Rex Hagg, Dennis Landguth, Daryl Englund, Pete Bullene, Gregg Greenfield, Glenn Blumhardt, and Bob Morris.

BOARD MEMBER ABSENT: Doyle Karpen and Linda Hilde.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM APRIL 20, 2017, MEETING: Motion by Blumhardt, seconded by Bullene, to approve the minutes from the April 20, 2017, Board of Minerals and Environment meeting. Motion carried unanimously.

MINING ISSUES

Consent Calendar: Prior to the meeting, the board received a table with the department's recommendation to transfer liability from C & W Enterprises, Inc., Harrisburg, SD, Mine License 98-671 to Dakota Constructors, Inc., Harrisburg, SD, Mine License 17-1019 (see attachment).

Motion by Morris, seconded by Greenfield, to accept the department recommendation for the transfer of liability from C & W Enterprises, Inc., Harrisburg, SD, Mine License 98-671 to Dakota Constructors, Inc., Harrisburg, SD, Mine License 17-1019, as shown on the consent calendar. Motion carried unanimously.

REQUEST PERMISSION TO ADVERTISE FOR A PUBLIC HEARING TO CONSIDER AMENDMENTS TO ARSD 74:28, HAZARDOUS WASTE: Carrie Jacobson, DENR Waste Management Program, requested permission to advertise for a public hearing to consider proposed amendments to 74:28, hazardous waste rules.

Ms. Jacobson answered questions from the board.

Motion by Greenfield, seconded by Landguth, to authorize the department to advertise for a public hearing to consider amendments to ARSD 74:28 to be held during the July 20, 2017, Board of Minerals and Environment meeting. Motion carried.

REQUEST PERMISSION TO ADVERTISE FOR A PUBLIC HEARING TO CONSIDER AMENDMENTS TO ARSD 74:36, AIR POLLUTION CONTROL PROGRAM: Marlys Heidt, DENR Air Quality Program, requested permission to advertise for a public hearing to consider amendments to ARSD 74:36, Air Pollution Control Program.

Ms. Heidt and Kyrik Rombough answered questions from the board.

Motion by Morris, seconded by Blumhardt, to authorize the department to advertise for a public hearing to consider amendments to ARSD 74:36. Motion carried unanimously.

ORAL MINING REPORTS: The annual large-scale gold mine oral reports were presented to the board by LAC Minerals (Richmond Hill Mine), Homestake, Wharf Resources, VMC (Deadwood Standard Project), and by DENR for the Gilt Edge Superfund Site. The mine operators reported on production and reclamation activities during 2016 and discussed plans for 2017. The annual oral mining presentations are required by statute.

LAC Minerals – Mark Tieszen

During 2016 LAC continued water treatment, discharging 28.8 million gallons. LAC plans to continue water treatment in 2017.

Homestake Mining Company – Mark Tieszen

In 2016 Homestake continued water treatment at its Blacktail Plant in Central City. For 2017 Homestake will petition for release of reclamation liability for 33.24 acres in the Sawpit and East Waste Rock Facility.

Wharf Resources – Matt Zietlow

During 2016 Wharf produced 109,175 ounces of gold and 105,144 ounces of silver. In 2016 Wharf continued mining in the Harmony (Golden Reward), Deep Portland and Green Mountain pits.

For 2017 Wharf plans to complete mining in the Harmony Pit, and continue mining the Green Mountain Pit.

VMC, LLC – Mark Nelson (via telephone conference call)

VMC, LLC (Deadwood Standard) reported there was no mining activity on its proposed operation on the rim of Spearfish Canyon.

Gilt Edge Superfund Site – Mike Cepak

Mr. Cepak reported that for the Gilt Edge Superfund Site in 2016, 49.6 million gallons of acid water was treated at the site. For 2017 the next phase of remediation work at Gilt Edge has begun with the construction of a new sludge impoundment, road building, and de-watering, sludge removal, and partial backfilling of the Sunday Pit.

UPDATE ON HOMESTAKE MINING COMPANY’S TECHNICAL REVISION FOR MINE PERMIT NOS. 332 AND 456 FOR THE PLACEMENT OF EXCAVATED ROCK FROM THE SANFORD LABORATORY INTO THE OPEN CUT: Mr. Cepak provided an update on the approval of Homestake Mining Company’s Technical Revision to allow for the disposal of 875,000 tons of rock excavated from the Sanford Underground Laboratory into Homestake Open Cut Mine at Lead. He answered questions from the board.

NEXT MEETING: The next meeting will be July 20, 2017. Chairman Hagg noted that this meeting may be held via telephone conference call or the Digital Dakota Network.

ADJOURN: Motion by Englund, seconded by Greenfield, that the meeting be adjourned. Motion carried unanimously.

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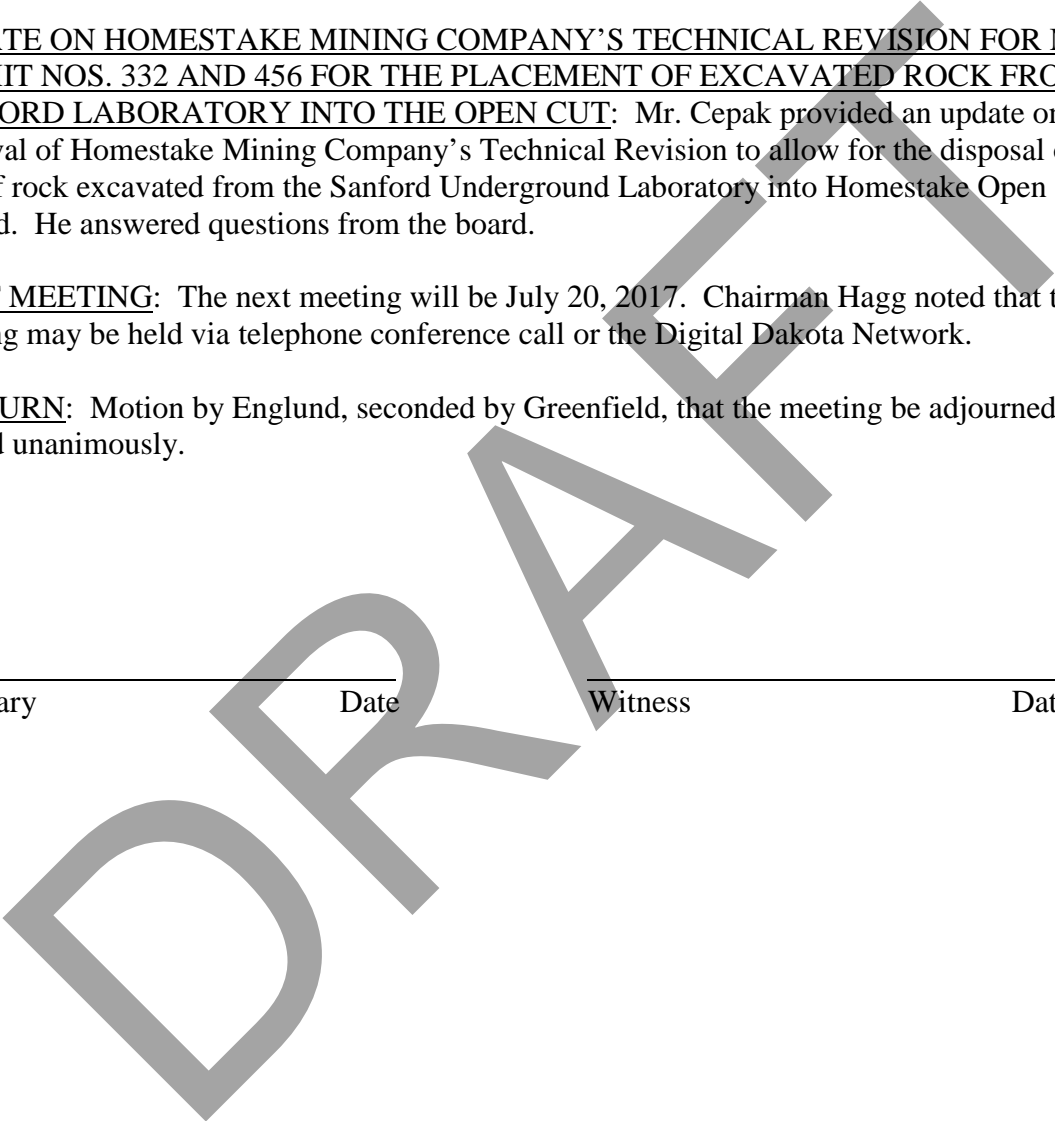
Secretary

Date

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Witness

Date



***South Dakota Board of Minerals & Environment  
Consent Calendar***

***May 18, 2017***

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Transfer of Liability:</u></b>						
C & W Enterprises, Inc. Harrisburg, SD	98-671		\$-0-	NA	NA	Transfer liability.
		<b>671005</b>	W1/2 W1/2 Section 9; T19N-R30E, Corson County			
		<b>671008</b>	Section 19; T100N-R74W, Tripp County			
Transfer to:						
Dakota Constructors, Inc. Harrisburg, SD	17-1019		\$3,500	GRSD40292A	Granite Re Inc.	

DRAFT





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

MEMO TO: Members of the Board of Minerals and Environment

FROM: Carrie Jacobson, Waste Management Program/Hazardous Waste Section

SUBJECT: Brief explanation of changes to the state hazardous waste rules – Board Hearing  
July 20, 2017

DATE: July 6, 2017

On May 18, 2017, the Board of Minerals and Environment granted the department permission to publish public notices, advertising the July 20, 2017, hearing regarding proposed revisions to the state's hazardous waste rules. With these changes the department proposes to adopt federal hazardous waste regulations promulgated from July 1, 2012, through June 30, 2016. To date, the board has adopted the federal regulations by reference through June 30, 2012.

As you know, the Environmental Protection Agency (EPA) updates rules on a continual basis, codifying those rules once each year. We, in turn, update our rules to stay in step with the federal requirements. Once those rules are in place we then prepare program authorization revision documents for EPA approval. This process of updating rules and maintaining our program authorization status allows us to conduct our hazardous waste program in lieu of EPA. While EPA still serves as an overseeing entity, the state has the lead role.

The enclosed proposed state rules incorporate updates EPA has made to its hazardous waste regulations from July 1, 2012 through June 30, 2016. As in previous years, these changes reflect clarifications and amendments to previously promulgated federal regulations. Listed below is a brief summary of the proposed rule changes that will be presented at the July public hearing via the Digital Dakota Network:

- Revise the 2008 Definition of Solid Waste to encourage legitimate recycling of certain hazardous wastes. Some hazardous wastes are amenable to being used as a substitute for a raw product or as a product supplement in some industrial processes. Although the proposed rules establish strict criteria companies must follow to ensure the wastes are not mismanaged, they are not as onerous as the full hazardous waste permitting requirements.
- Allow most solvent-contaminated paper and cloth wipes to be excepted from the hazardous waste rules as long as the generator follows accumulation, container labeling, and recordkeeping requirements.
- Establish a regulatory framework for the development and use of Electronic Manifests.



- Revise recordkeeping and notice requirements for imports and exports of hazardous waste.
- Incorporate technical and typographical corrections to errors made in the federal rules.

Enclosed is a copy of the proposed rules as well as a copy of the slide show that will be presented at the hearing. Thank you for your consideration of these rules and please call me at 605-773-3153 if you have any questions.

Enclosures

## ARTICLE 74:28

### HAZARDOUS WASTE

#### Chapter

74:28:21	Administration.
74:28:22	Identification and listing.
74:28:23	Standards for generators.
74:28:24	Standards for transporters.
74:28:25	Treatment, storage, and disposal.
74:28:26	Permit requirements.
74:28:27	Management of specific hazardous wastes.
74:28:28	Interim status standards for facilities.
74:28:29	Interim status for existing surface impoundments.
74:28:30	Land disposal restrictions.
74:28:31	Polychlorinated biphenyl, Deleted.
74:28:32	Toxic cleanup day, Executed.
74:28:33	Management of universal hazardous waste.
74:28:34	Special requirements for landfills and surface impoundments.

#### CHAPTER 74:28:21

#### ADMINISTRATION

#### Section

74:28:21:01	Definitions.
74:28:21:02	General standards for a hazardous waste management system.

**74:28:21:01. Definitions.** Terms used in the federal rules which are adopted by reference in this article have the following meanings. All references in this article to federal regulations are those revised as of ~~July 1, 2012~~ July 1, 2016, unless otherwise specified:

(1) "Administrator," the secretary of the Department of Environment and Natural Resources or a designee, except at:

- (a) 40 C.F.R. § 260.10, the definitions of "administrator," "~~r~~Regional ~~a~~Administrator," and "hazardous waste constituent";
- (b) 40 C.F.R. Part 261, Appendix IX;
- (c) 40 C.F.R. §§ 262.55; 262.56(a); 262.56(b); and Part 262, Appendix;
- (d) 40 C.F.R. §§ 264.12(a) and 265.12(a);
- (e) 40 C.F.R. § 268.40(b);

(f) 40 C.F.R. § 270.2, the definitions of "administrator," "director," "major facility," "~~r~~Regional ~~a~~Administrator," and "state/EPA agreement";

(g) 40 C.F.R. §§ 270.3; 270.5; 270.10(e)(2), (3), and (4); 270.10(f) and (g); 270.11(a)(3); 270.14(b)(20); 270.32(b)(2); and 270.51;

(2) "Director," the secretary of the Department of Environment and Natural Resources or a designee;

(3) "EPA," the state Department of Environment and Natural Resources, except for:

(a) Any references to "EPA identification numbers," "EPA forms," "EPA hazardous waste numbers," "EPA test methods," "EPA publications," "EPA manuals," "EPA guidance," or "EPA Acknowledgment of Consent";

(b) Any reference to EPA in the following regulations:

(i) 40 C.F.R. § 260.10, the definitions of "administrator," "electronic manifest," "electronic manifest system," "EPA region," "federal agency," "person," ~~and~~ "~~r~~Regional ~~a~~Administrator," and "user of the electronic manifest system";

(ii) 40 C.F.R. Part 261, Appendix IX;

(iii) 40 C.F.R. §§ 262.21; 262.32(b); 262.51; 262.53(a); 262.53(c) to 262.53(f), inclusive; 262.54(g)(1); and Part 262, Appendix;

(iv) 40 C.F.R. §§ 264.11 and 265.11;

(v) 40 C.F.R. § 268.1(e)(3), 268.2(j) and 268.40(f);

(vi) 40 C.F.R. §§ 270.1(a)(1); 270.1(b); 270.3; 270.5; 270.10(e)(2); 270.11(a)(3); 270.32(a) and (c); 270.51; 270.72(a)(5); and 270.72(b)(5);

(vii) 40 C.F.R. § 270.2, the definitions of "administrator," "approved program or approved state," "director," "Environmental Protection Agency," "EPA," "final authorization," "permit," "person," "~~r~~Regional ~~a~~Administrator," and "state/EPA agreement";

(viii) 40 C.F.R. § 273.32(a)(3);

(ix) The second reference to EPA at 40 C.F.R. §§ 264.1082(c)(4)(ii) and 265.1083(c)(4)(ii);

(x) 40 C.F.R. § 260.11(a);

(xi) 40 C.F.R. §§ 261.39 (a)(5) and 261.41;

(4) "EPA hazardous waste number," the number assigned by the secretary to each hazardous waste;

(5) "EPA identification number," the number assigned by the secretary to each generator, transporter, and treatment, storage, or disposal facility;

(6) "Existing hazardous waste management facility" or "existing facility," a facility that was in operation or for which construction commenced on or before November 19, 1980, for HSWA facilities, or before April 8, 1984, for non-HSWA facilities;

(7) "Existing tank system" or "existing component," a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation or for which installation commenced on or before July 14, 1986, for HSWA tanks, as defined in subdivision (9) of this section, or June 7, 1989, for non-HSWA tanks, as defined in subdivision (12) of this section;

(8) "Federal Register," a newspaper of general circulation in the state of South Dakota, except at:

- (a) 40 C.F.R. § 260.11(a) and (b);
- (b) 40 C.F.R. § 270.6(a) and (b);
- (c) 40 C.F.R. § 270.10(e)(2);
- (d) 40 C.F.R. Part 261, Appendix IX;
- (e) 40 C.F.R. Part 266, Appendix IX;

(9) "HSWA tank," a tank owned or operated by a small quantity generator, a new underground tank, or a tank which cannot be entered for inspection;

(10) "New hazardous waste management facility" or "new facility," a facility that began operation, or for which construction commenced, after November 19, 1980, for HSWA facilities, and April 8, 1984, for non-HSWA facilities;

(11) "New tank system" or "new tank component," a tank system or component that will be used for the storage or treatment of hazardous waste for which installation commenced after July 14, 1986, for HSWA tanks, as defined in subdivision (9) of this section, and June 7, 1989, for non-HSWA tanks, as defined in subdivision (12) of this section or, for the purposes of 40 C.F.R. § 264.193(g)(2) (~~July 1, 2012~~July 1, 2016) and 40 C.F.R. § 265.193(g)(2) (~~July 1, 2012~~July 1, 2016), for which construction commenced after July 14, 1986, for HSWA tanks and June 7, 1989, for non-HSWA tanks;

(12) "Non-HSWA tank," a tank which is not owned or operated by a small quantity generator and is either an existing underground tank or a tank that can be entered for inspection;

(13) "Region," the state of South Dakota, at these two sections:

- (a) 40 C.F.R. § 261.4(e)(3)(~~iii~~);
- (b) 40 C.F.R. § 262.42(a)(2);

(14) "Resource Conservation and Recovery Act," "RCRA," or any references to any sections of RCRA, SDCL chapter 34A-11, the South Dakota Hazardous Waste Management Act, except at:

- (a) 40 C.F.R. § 260.10, the definition of "Act" or "RCRA";
- (b) 40 C.F.R. Part 261, Appendix IX;
- (c) 40 C.F.R. Part 262, Appendix;
- (d) 40 C.F.R. §§ 270.1(a)(2) and 270.51;
- (e) 40 C.F.R. § 270.2, the definition of "RCRA";
- (f) 40 C.F.R. §§ 264.4 and 265.4;

(15) "Regional ~~a~~Administrator," the secretary of the Department of Environment and Natural Resources or a designee, except at:

- (a) 40 C.F.R. § 260.10, the definitions of "administrator," "~~f~~Regional ~~a~~Administrator," and "hazardous waste constituent";
- (b) 40 C.F.R. Part 261, Appendix IX;

- (c) 40 C.F.R. § 262.12 and Part 262, Appendix;
- (d) 40 C.F.R. § 263.11;
- (e) 40 C.F.R. §§ 264.12(a) and 265.12(a);
- (f) 40 C.F.R. § 270.2, the definitions of "administrator," "director," "major facility," "Regional Administrator," and "state/EPA agreement";
- (g) 40 C.F.R. §§ 270.3; 270.5; 270.10(e)(2) and (4); 270.10(f) and (g); 270.11(a)(3); 270.14(b)(20); 270.32(b)(2); and 270.51;

(16) "Secretary," the secretary of the Department of Environment and Natural Resources or a designee;

(17) "State," the state of South Dakota, except at:

- (a) 40 C.F.R. § 260.10, the definitions of "person," "state," and "United States";
- (b) 40 C.F.R. §§ 264.143(e)(1); 265.143(d)(1); 264.145(e)(1); 265.145(d)(1); 264.147(a)(1)(ii), (b)(1)(ii), (g)(2), and (i)(4); and 265.147(a)(1)(ii), (b)(1)(ii), (g)(2) and (i)(4); and
- (c) 40 C.F.R. § 270.2, the definitions of "approved program or approved State," "director," "final authorization," "interim authorization," "person," and "state";

(18) Any reference to 40 C.F.R. § 124.15 should be replaced with § 124.5 at the following locations: §§ 264.1030(c), 264.1050(c), 264.1080(c), and 265.1080(c);

(19) "EPA Environmental Appeals Board," the South Dakota State Circuit Court.

(20) Any reference to "United States," "U.S.," "U.S. Customs Official," "U.S. national procedures," "United Nations," "U.N.," "U.N. classification number," "Organization for Economic Cooperation and Development," "OECD," "Federal Register," "EPA Acknowledgment of Consent," "Environmental Protection Agency," "EPA," and any other Federal Agencies or Offices within Federal Agencies should be retained at §§ 262.10(d); 262.24(a)(3); 262.24(g); 262.25; 262.53 through 262.58, inclusive; 262.80 to 262.89, inclusive; 263.10(d); 263.20(a)(2); 263.20(a)(4)(iv); 263.20(a)(8); 264.12(a)(12); 264.71(a)(2)(v); 264.71(a)(3); 264.71(d); 264.(f)(4); 264.71(j); 265.12(a)(2); 265.71(a)(2)(v); 265.71(a)(3); 265.71(d); 265.71(f)(4); 265.71(j); and 266.80(a) Table (6) and (7).

**Source:** 10 SDR 106, effective April 8, 1984; 11 SDR 44, effective September 30, 1984; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9.

**74:28:21:02. General standards for a hazardous waste management system.** The definitions, except as specified in § 74:28:21:01, references, petitions, variances, and other

procedures in 40 C.F.R. §§ 260.10 to 260.43, inclusive, (~~July 1, 2012~~July 1, 2016), constitute the general hazardous waste management system.

**Source:** 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9.

## CHAPTER 74:28:22

### IDENTIFICATION AND LISTING

#### Section

74:28:22:01 Identification and listing of hazardous wastes.

**74:28:22:01. Identification and listing of hazardous wastes.** Solid wastes which are subject to regulation as hazardous wastes are those identified and listed in 40 C.F.R. §§ 261.1 to ~~261.41~~261.1089, inclusive, except 40 C.F.R. § 261.4(b)(16) and (17); §§ 261.140 to 261.151, inclusive, and Appendices I, VII, VIII, and IX (~~July 1, 2012~~July 1, 2016). ~~In addition to these wastes, polychlorinated biphenyls in concentrations of 50 parts per million and above are subject to the regulations for treatment, storage, and disposal in chapter 74:28:31.~~

**Source:** 10 SDR 106, effective April 8, 1984; 12 SDR 79, effective November 11, 1985; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 16 SDR 203, effective May 27, 1990; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-8.

**Law Implemented:** SDCL 34A-11-8.

## CHAPTER 74:28:23

### STANDARDS FOR GENERATORS

Section

74:28:23:01

Standards for generators.

**74:28:23:01. Standards for generators.** The standards for generators of hazardous waste are those in 40 C.F.R. §§ 262.10 to ~~262.70~~262.89, inclusive, except 40 C.F.R. § 262.10(j) and (k) and § 262.34(j) to (l), inclusive; §§ 262.200 to 262.216, inclusive, and the appendix to 40 C.F.R. Part 262 (~~July 1, 2012~~July 1, 2016).

**Source:** 10 SDR 106, effective April 8, 1984; 11 SDR 44, effective September 30, 1984; 12 SDR 79, effective November 11, 1985; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-16.

## CHAPTER 74:28:24

### STANDARDS FOR TRANSPORTERS

Section

74:28:24:01

Standards for transporters.

**74:28:24:01. Standards for transporters.** The standards for transporters of hazardous waste are those in 40 C.F.R. §§ 263.10 to 263.31, inclusive (~~July 1, 2012~~July 1, 2016).

**Source:** 10 SDR 106, effective April 8, 1984; 12 SDR 79, effective November 11, 1985; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective

August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-16.

## CHAPTER 74:28:25

### TREATMENT, STORAGE, AND DISPOSAL

#### Section

- 74:28:25:01 Standards for hazardous waste treatment, storage, and disposal facilities.  
74:28:25:03 Assessment of existing tank system's integrity.  
74:28:25:04 Containment and detection of releases from tanks.  
74:28:25:05 Definition of new and existing drip pads for certain wood preserving wastes.

#### **74:28:25:01. Standards for hazardous waste treatment, storage, and disposal facilities.**

The standards for hazardous waste treatment, storage, and disposal facilities are those in 40 C.F.R. §§ 264.1 to 264.1202, inclusive, except for 40 C.F.R. §§ 264.1(f), 264.1(g)(12), 264.18(c), 264.149, 264.150, 264.191(a) and (c), 264.193(a), 264.301(l), 264.570(a), 264.1030(d), 264.1050(g), and 264.1080(e), (f), and (g); and Appendices I, IV, V, VI, and IX and §§ 267.1 to 267.1108, inclusive, except § 267.71(d) (~~July 1, 2012~~July 1, 2016).

**Source:** 10 SDR 106, effective April 8, 1984; 12 SDR 79, effective November 11, 1985; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12, 34A-11-16.

**Cross-Reference:** Exposure information from landfills and surface impoundments, § 74:28:34:01.

**74:28:25:03. Assessment of existing tank system's integrity.** For each existing tank system that does not have secondary containment meeting the requirements of 40 C.F.R. § 264.193 (~~July 1, 2012~~July 1, 2016), the owner or operator must determine that the tank system is not leaking or is unfit for use.



The owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, registered professional engineer licensed to do business in South Dakota, in accordance with 40 C.F.R. § 270.11(d) (~~July 1, 2012~~July 1, 2016), that attests to the tank system's integrity by January 12, 1988, for HSWA tanks and September 14, 1990, for non-HSWA tanks.

Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986, for HSWA tanks and subsequent to June 7, 1989, for non-HSWA tanks must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

For existing tank systems or existing components, a tank system or component installation is considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either (1) a continuous on-site physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within one year.

**Source:** 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-12, 34A-11-13, 34A-11-14.

**74:28:25:04. Containment and detection of releases from tanks.** To prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this chapter must be provided, except as provided in 40 C.F.R. § 264.193(f) and (g) (~~July 1, 2012~~July 1, 2016), as follows:

- (1) For all new tank systems or components, before they are put into service;
- (2) For all existing tank systems used to store or treat EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987, for HSWA tanks and two years after September 14, 1989, for non-HSWA tanks;
- (3) For those existing tank systems of known and documented age, within two years after January 12, 1987, for HSWA tanks and two years after September 14, 1989, for non-HSWA tanks or when the tank system has reached 15 years of age, whichever comes later;
- (4) For those existing tank systems for which the age cannot be documented, within eight years after January 12, 1987, for HSWA tanks and within eight years after September 14, 1989, for non-HSWA tanks; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age or within two years after January 12, 1987, for HSWA tanks or within two years after September 14, 1989, for non-HSWA tanks, whichever comes later; and

(5) For tank systems that store or treat materials that become hazardous waste subsequent to January 12, 1987, for HSWA tanks and September 14, 1989, for non-HSWA tanks, within the time intervals required in subdivisions (1) to (4), inclusive, of this section, except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987, for HSWA tanks and September 14, 1989, for non-HSWA tanks.

**Source:** 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-12, 34A-11-13, 34A-11-14.

**74:28:25:05. Definition of new and existing drip pads for certain wood preserving wastes.** The requirements of 40 C.F.R. Part 264, Subpart W (~~July 1, 2012~~July 1, 2016) apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, or surface water runoff to an associated collection system.

For EPA hazardous waste number F032 wastes, existing drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into before December 6, 1990, binding financial or other agreements for construction. For EPA hazardous waste numbers F034 and F035 wastes, existing drip pads are those constructed before July 7, 1992, and those for which the owner or operator has a design and has entered into before July 7, 1992, binding financial or other agreements for construction. All other drip pads are new drip pads.

For EPA hazardous waste number F032 wastes, the requirement at 40 C.F.R. § 264.573(b)(3) (~~July 1, 2012~~July 1, 2016) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, for which the owner or operator has a design and has entered into before December 24, 1992, binding financial or other agreements for construction. For EPA hazardous waste numbers F034 and F035 wastes, the requirement at 40 C.F.R. § 264.573(b)(3) (~~July 1, 2012~~July 1, 2016) to install a leak collection system applies only to those drip pads that are constructed after September 29, 1994, for which the owner or operator has a design and has entered into before September 29, 1994, binding financial or other agreements for construction.

**Source:** 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-12, 34A-11-13, 34A-11-14.

## CHAPTER 74:28:26

## PERMIT REQUIREMENTS

### Section

74:28:26:01 Requirements to permit a treatment, storage, or disposal facility.

**74:28:26:01. Requirements to permit a treatment, storage, or disposal facility.** The requirements to permit a treatment, storage, or disposal facility are those in 40 C.F.R. §§ 270.1 to 270.320, inclusive, except §§ 270.1(c)(2)(ix) and 270.14(b)(18); and Appendix I (~~July 1, 2012~~July 1, 2016); 40 C.F.R. §§ 124.1(b); 124.2(a); 124.3(a); 124.5(a); 124.5(c); 124.6(a), (b), (d), and (e); 124.11; 124.31(b), (c), and (d); 124.32(b) and (c); 124.33(b) to (f); and §§ 124.200 to 124.214, inclusive (all ~~July 1, 2012~~July 1, 2016); and 40 C.F.R. §§ 144.31(g)(1) to (3), inclusive (July 1, 1992). Any interested person may contest the issuance of a permit by following the procedures in chapter 74:09:01.

The requirements for a preapplication public meeting and notice found in 40 C.F.R. § 124.31 (~~July 1, 2012~~July 1, 2016) apply to all hazardous waste permit applications seeking initial permits for hazardous waste management units, to hazardous waste permit applications seeking coverage under a standardized permit under § 270 subpart J (~~July 1, 2012~~July 1, 2016), and to hazardous waste permit applications seeking renewal of permits if the renewal application is proposing a significant change in facility operations. A significant change to a hazardous waste permit is any change that is considered a Class 3 permit modification under 40 C.F.R. § 270 (~~July 1, 2012~~July 1, 2016). A significant change to a standardized permit is defined at § 124.211(c) (~~July 1, 2012~~July 1, 2016). The requirements of this paragraph for a preapplication public meeting and notice do not apply to hazardous waste permit applications or permit modifications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

The requirements for public notice at the application stage found in 40 C.F.R. § 124.32 (~~July 1, 2012~~July 1, 2016) apply to all hazardous waste permit applications seeking initial permits for hazardous waste management units and to applications seeking renewal of permits for such units under 40 C.F.R. § 270.51 (~~July 1, 2012~~July 1, 2016). The requirements for public notice at the application stage do not apply to hazardous waste units permitted under a standardized permit under 40 C.F.R. § 270 subpart J (~~July 1, 2012~~July 1, 2016), ~~erto~~ hazardous waste permit modifications under 40 C.F.R. § 270.42 (~~July 1, 2012~~July 1, 2016), ~~o~~ to applications submitted for the sole purpose of conducting post-closure activities or post-closure and corrective action at a facility.

The requirement for an information repository found in 40 C.F.R. § 124.33 (~~July 1, 2012~~July 1, 2016) applies to all applications seeking a hazardous waste permit for hazardous waste management units.

**Source:** 10 SDR 106, effective April 8, 1984; 12 SDR 79, effective November 11, 1985; 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August

29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-12, 34A-11-13, 34A-11-14, 34A-11-15.

**Cross-Reference:** Special requirements for landfills and surface impoundments, § 74:28:34:01.

## CHAPTER 74:28:27

### MANAGEMENT OF SPECIFIC HAZARDOUS WASTES

Section

74:28:27:01 Requirements for the management of specific hazardous wastes.

**74:28:27:01. Requirements for the management of specific hazardous wastes.** The requirements for the management of specific hazardous wastes and specific types of hazardous waste management facilities are those in 40 C.F.R. §§ 266.20 to 266.360, inclusive, and Appendices I, II, III, IV, V, VI, VII, VIII, IX, XI, XII, and XIII and §§ 279.1 to 279.82, inclusive, except 40 C.F.R. § 279.82(b) and (c) (~~July 1, 2012~~July 1, 2016).

The language in 40 C.F.R. § 279.82(a) "except when such activity takes place in one of the states listed in paragraph (c) of this section" is not incorporated by reference.

**Source:** 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12.

## CHAPTER 74:28:28

### INTERIM STATUS STANDARDS FOR FACILITIES

Section

74:28:28:01 Interim status standards for treatment, storage, and disposal facilities.

- 74:28:28:03 Assessment of existing tank system's integrity.  
74:28:28:04 Containment and detection of releases from tanks.  
74:28:28:05 Definition of new and existing drip pads for certain wood preserving wastes.

**74:28:28:01. Interim status standards for treatment, storage, and disposal facilities.**

The interim status standards for hazardous waste treatment, storage, and disposal facilities are those in 40 C.F.R. § 144.1(h); §§ 265.1 to 265.1202, inclusive, except 40 C.F.R. §§ 265.1(c)(4), 265.1(c)(15), 265.18, 265.149, 265.150, 265.191(a) and (c), 265.193(a), 265.440(a), 265.1030(c), 265.1050(f), and 265.1080(e), (f), and (g); and Appendices I, III, IV, V, and VI (~~July 1, 2012~~July 1, 2016).

**Source:** 13 SDR 117, effective March 1, 1987; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12, 34A-11-16.

**Cross-Reference:** Special requirements for landfills and surface impoundments, § 74:28:34:01.

**74:28:28:03. Assessment of existing tank system's integrity.** For each tank system that does not have secondary containment meeting the requirements of 40 C.F.R. § 265.193 (~~July 1, 2012~~July 1, 2016), the owner or operator must determine that the tank system is not leaking or is unfit for use.

The owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, registered professional engineer licensed to do business in South Dakota in accordance with 40 C.F.R. § 270.11(d) (~~July 1, 2012~~July 1, 2016), that attests to the tank system's integrity by January 12, 1988, for HSWA tanks and September 14, 1990, for non-HSWA tanks.

Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986, for HSWA tanks and subsequent to June 7, 1989, for non-HSWA tanks must conduct this assessment within 12 months after the date that the wastes become a hazardous waste.

**Source:** 24 SDR 11 effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36

SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34-11-10, 34A-11-12, 34A-11-16.

**74:28:28:04. Containment and detection of releases from tanks.** To prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this chapter must be provided, except as provided in 40 C.F.R. § 265.193(f) and (g) (~~July 1, 2012~~July 1, 2016), as follows:

(1) For all new tank systems or components, before they are put into service;

(2) For all existing tank systems used to store or treat EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987, for HSWA tanks and two years after September 14, 1989, for non-HSWA tanks;

(3) For those existing tank systems of known or documented age, within two years after January 12, 1987, for HSWA tanks and two years after September 14, 1989, for non-HSWA tanks or when the tank system has reached 15 years of age, whichever comes later;

(4) For those existing tank systems for which the age cannot be documented, within eight years after January 12, 1987, for HSWA tanks and within eight years after September 14, 1989, for non-HSWA tanks; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age or within two years after January 12, 1987, for HSWA tanks or within two years after September 14, 1989, for non-HSWA tanks, whichever comes later; and

(5) For tank systems that store or treat materials that become hazardous waste subsequent to January 12, 1987, for HSWA tanks and September 14, 1989, for non-HSWA tanks, within the time interval required in subdivisions (1) to (4), inclusive, of this section, except that the date that a material becomes hazardous waste must be used in place of January 12, 1987, for HSWA tanks and September 14, 1989, for non-HSWA tanks.

**Source:** 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12, 34A-11-16.

**74:28:28:05. Definition of new and existing drip pads for certain wood preserving wastes.** The requirements of 40 C.F.R. Part 265, Subpart W (~~July 1, 2012~~July 1, 2016) apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, or surface water runoff to an associated collection system.

For EPA hazardous waste number F032 wastes, existing drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered

into binding financial or other agreements for construction prior to December 6, 1990. For EPA hazardous waste numbers F034 and F035 wastes, existing drip pads are those constructed before July 7, 1992, and those for which the owner or operator has a design and has entered into before July 7, 1992, binding financial or other agreements for construction. All other drip pads are new drip pads.

For EPA hazardous waste number F032 wastes, the requirement at 40 C.F.R. § 265.443(b)(3) (~~July 1, 2012~~ July 1, 2016) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, for which the owner or operator has a design and has entered into before December 24, 1992, binding financial agreements for construction. For EPA hazardous waste numbers F034 and F035 wastes, the requirement at 40 C.F.R. § 265.443(b)(3) (~~July 1, 2012~~ July 1, 2016) to install a leak collection system applies only to those drip pads that are constructed after September 29, 1994, for which the owner or operator has a design and has entered into before September 29, 1994, binding financial or other agreements for construction.

**Source:** 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12, 34A-11-16.

## CHAPTER 74:28:30

### LAND DISPOSAL RESTRICTIONS

Section

74:28:30:01 Land disposal restrictions.

**74:28:30:01. Land disposal restrictions.** The requirements for hazardous wastes that are restricted from land disposal are those in 40 C.F.R. §§ 268.1 to 268.4, inclusive; 40 C.F.R. §§ 268.7 to 268.50, inclusive, except 40 C.F.R. §§ 268.10, 268.11, 268.12, 268.13, 268.42(b) and 268.44; and Appendices III, IV, VI, VII, VIII, IX, and XI (~~July 1, 2012~~ July 1, 2016).

**Source:** 16 SDR 44, effective September 14, 1989; 17 SDR 204, effective July 10, 1991; 19 SDR 48, effective October 8, 1992; 20 SDR 56, effective October 24, 1993; 21 SDR 56, effective September 29, 1994; 22 SDR 43, effective October 2, 1995; 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-12, 34A-11-16.

## CHAPTER 74:28:33

### MANAGEMENT OF UNIVERSAL HAZARDOUS WASTE

Section

74:28:33:01 Management of universal hazardous waste.

**74:28:33:01. Management of universal hazardous waste.** The standards for management of universal hazardous waste are those in 40 C.F.R. §§ 273.1 to 273.81, inclusive (~~July 1, 2012~~[July 1, 2016](#)).

**Source:** 23 SDR 64, effective November 5, 1996; 24 SDR 11, effective August 5, 1997; 26 SDR 26, effective August 29, 1999; 27 SDR 59, effective December 12, 2000; 28 SDR 24, effective August 29, 2001; 29 SDR 21, effective August 28, 2002; 30 SDR 26, effective September 1, 2003; 31 SDR 23, effective August 29, 2004; 34 SDR 68, effective September 13, 2007; 35 SDR 88, effective October 27, 2008; 36 SDR 44, effective September 28, 2009; 38 SDR 58, effective October 18, 2011; 40 SDR 61, effective October 10, 2013.

**General Authority:** SDCL 34A-11-9.

**Law Implemented:** SDCL 34A-11-9, 34A-11-10, 34A-11-16.



# SDDENR Hazardous Waste Program

A short history and an overview of current proposed rules

Board of Minerals and Environment Rules Hearing  
July 20, 2017

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\*November 2, 1984: Date South Dakota Hazardous Waste Program first became authorized to conduct its program in lieu of the Environmental Protection Agency (EPA)

## Authorized Program

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### Quality Program Elements

- HW Rule updates
- Rule Enforcement
  - Inspections (minimum 75/year)
  - Permitting (currently 2 facilities)
  - Compliance Assistance /Outreach (daily)
- EPA Oversight / Performance Partnership Agreement

## Maintaining Authorization

3

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Revision Authorization Packages

- Updated HW Rules
- Rule checklists
- HW Statutes
- SD Attorney General's Statement
- HW Program Description
- State/EPA Memorandum of Agreement

## Subsequent Revision Authorizations

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Federal Register publications

- 06-17-91
- 11-08-93
- 03-11-94
- 09-23-96
- 06-08-00
- 05-24-04
- 03-08-06
- 08-08-12
- 08-23-16

## Subsequent Revision Authorizations

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Administrative Rules of South Dakota (ARSD)  
Chapter 74:28

- Adoption by reference - federal hazardous waste regulations in Title 40 Code of Federal Regulations (40 CFR) Parts 260 through 279

## HW Rule Stringency

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Federal Resource Conservation and Recovery Act (RCRA) Section 3009

"...no State or political subdivision may impose any requirements less stringent than those authorized under this subtitle respecting the same matter as governed by such regulations,...."

## HW Rule Stringency

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South Dakota Codified Laws (SDCL) 1-40-4.1

Limitation on stringency of certain rules. No rule that has been promulgated pursuant to Title 34A, 45, 46 or 46A may be more stringent than any corresponding federal law, rule, or regulation governing an essentially similar subject or issue.

*Title 34A Chapter 11 => Hazardous Waste Management statutes*

## HW Rule Stringency

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The 2017 proposed state HW rule update reflects federal hazardous waste regulations promulgated from July 1, 2012 to June 30, 2016 and codified into the Code of Federal Regulations (CFR) Title 40.

✓ interesting fact: The federal Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis. The federal HW regulations are placed in Title 40 and contain final regulations published in the federal register between July 1 and June 30 of the following year.

## Proposed 2017 HW Rule Update

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Federal HW Rules Promulgated July 1 2012 to June 30, 2016:

- July 1, 2012 and June 30, 2013: 0 rules
- July 1, 2013 and June 30, 2014: 4 rules
- July 1, 2014 and June 30, 2015: 3 rules
- July 1, 2015 and June 30, 2016: 0 rules

## Proposed 2017 HW Rule Update

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Highlights:

- Update to Hazardous Secondary Materials provisions;
- Exemptions for certain solvent-contaminated wipes;
- Framework for use of eManifests;
- Revisions to HW Import/Export rules;
- Typographical error corrections.

## Proposed 2017 HW Rule Update

11

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Hazardous Secondary Materials Provisions-

- Updates 2008 requirements;
- High-quality, used material may be recycled/put to use with minimal HW requirements.

## Proposed 2017 HW Rule Update

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**Solvent-Contaminated Wipes Rule -**

- Cloth & paper wipes used w/common solvents (e.g. Acetone, Toluene, Xylenes, Isobutyl alcohol...)
- Accumulate, store & transport in non-leaking, closed, labeled ("excluded solvent-contaminated wipes") containers;
- Recordkeeping: 180-day on-site storage; name & address of receiving operation (laundry, dry cleaner, or landfill);
- Wipes must contain no free liquids.

**Proposed 2017 HW Rule Update**

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**eManifest Framework -**

- Optional electronic manifesting system;
- Ease waste tracking for generators, transporters and permitted HW facilities;
- Software developed/maintained by EPA.

**HW Import/Export revisions -**

- Recordkeeping and notice requirements;
- No SD HW importers/exporters.

**Proposed 2017 HW Rule Update**

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**Excepting obsolete federal rules-**

- Performance Track operations (e.g. 74:28:23:01/262.34(j) to (l))

**Typographical errors**

- Internal citations

**Proposed 2017 HW Rule Update**

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Rules and associated forms were submitted to:

- Bureau of Finance & Management on May 26, 2017
- Legislative Research Council on May 26, 2017

Public Notices published on or before June 6, 2017 in four newspapers:

- Rapid City Journal
- Pierre Capital Journal
- Sioux Falls Argus Leader
- Watertown Public Opinion

## Proposed 2017 HW Rule Update

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Notice of the draft rules sent to the BME mailing list as well as an addendum list.

Draft rules available online:

- DENR One-Stop public notice site:  
<http://denr.sd.gov/public/default.aspx>
- HW Program website:  
<http://denr.sd.gov/des/wm/hw/hwmainpage.aspx>

## Proposed 2017 HW Rule Update

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Comments received:

- LRC (form and style)

Request for clarification (via phone or email):

- Four (4)

## Proposed 2017 HW Rule Update

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Contact Information-

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**PROPOSED AMENDMENTS**

**ARSD 74:36**

**AIR POLLUTION CONTROL PROGRAM**

**July 2017**



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## **1.0 Background**

The Air Quality Program within the South Dakota Department of Environment and Natural Resources (DENR) implements federal air quality programs. There are several methods by which the U.S. Environmental Protection Agency (EPA) gives states approval to implement federal air quality programs. The more traditional method is for states to adopt rules and submit the state rules to EPA for implementation into what is known as a state implementation plan (SIP). For this process, EPA reviews the state's rules to determine if the rules are equivalent to the federal regulations. If the state's rules are equivalent, EPA approves the state's rules through a federal register notice.

A second method for administrating a federal air quality program is to request delegation of the program. The first step in requesting delegation is to adopt state rules that are equivalent to the federal regulations. Adopting the federal regulations by reference is the simplest method DENR has found to achieve this goal.

A third method for administrating a federal air quality program is to have the program approved. As with the first two methods of implementing a federal air quality program, the state must adopt rules that are equivalent to the federal program and submit the rules to EPA for approval

The proposed revisions to South Dakota's Air Pollution Control Program are discussed in the following chapters and may be viewed in Appendix A.

## **2.0 Chapter 74:36:01 – Definitions**

The terms used throughout Article 74:36 – Air Pollution Control Program are defined in Chapter 74:36:01. EPA approved sections 74:36:01:01 through 74:36:01:21 of this chapter into South Dakota's SIP.

Six definitions in Chapter 74:36:01 reference federal regulations. The federal regulations are periodically updated to ensure these definitions are consistent with the federal regulations, For example, the definition of a volatile organic compound is revised periodically by EPA by adding compounds to the list of organic compounds that have negligible photochemical reactivity, and therefore, are not considered a volatile organic compound. The sections in Chapter 74:36:01 that require updating the reference date to the most current version of the federal reference as of July 1, 2016, involve the following:

1. 74:36:01:01(8);
2. 74:36:01:01(29);
3. 74:36:01:01(67);
4. 74:36:01:05; and
5. 74:36:01:20.

The proposed changes to Chapter 74:36:01 may be observed in Appendix A.

### **3.0 Chapter 74:36:02 – Ambient Air Quality**

Chapter 74:36:02 establishes the air quality goals and ambient air quality standards for South Dakota. EPA approved sections 74:36:02:01 through 74:36:02:05 of this chapter into South Dakota's SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. The following sections in Chapter 74:36:02 involve this type of change:

1. 74:36:02:02;
2. 74:36:02:03;
3. 74:36:02:04; and
4. 74:36:02:05

The proposed changes to Chapter 74:36:02 may be observed in Appendix A.

### **4.0 Chapter 74:36:03 – Air Quality Episodes**

Chapter 74:36:03 identifies the contingency plan DENR will follow during an air pollution emergency episode. EPA approved sections 74:36:03:01 and 74:36:03:02 of this chapter into South Dakota's SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve 74:36:03:01 and 74:36:03:02.

The proposed changes to Chapter 74:36:03 may be observed in Appendix A.

### **5.0 Chapter 74:36:04 – Operating Permits for Minor Sources**

Chapter 74:36:04 is South Dakota's minor air quality operating permit program. EPA approved sections 74:36:04:01 through 74:36:04:33 of this chapter into South Dakota's SIP.

South Dakota's minor air quality permit program initially was both a construction and operational permit program. South Dakota separated the construction portion from the minor air quality permit program in calendar year 2010 by developing an independent construction permit program as outlined in Chapter 74:36:20. The construction permit program identifies the requirements for air pollution dispersion modeling. Therefore, this language is no longer required in South Dakota's minor air quality permit program. Changes are proposed to remove language referring to air pollution dispersion modeling or other dispersion techniques from the standards for issuance of a minor source operating permit. These changes involve section 74:36:04:04.

The proposed changes to Chapter 74:36:04 may be observed in Appendix A.

## **6.0 Chapter 74:36:05 – Operating Permits for Part 70 Sources**

Chapter 74:36:05 is South Dakota's Title V air quality operating permit program, which is also referred to as an Operating Permit for Part 70 Sources program. Title V air quality operating permit programs are not part of South Dakota's SIP; however, EPA has approved South Dakota's program. This program is located in sections 74:36:05:01 through 74:36:05:52.

South Dakota's Title V air quality permit program initially was both a construction and operational permit program. South Dakota removed the construction portion from the Title V air quality permit program in calendar year 2010 by developing an independent construction permit program as outlined in Chapter 74:36:20. The construction permit program identifies the requirements for air pollution dispersion modeling. Therefore, this language is no longer required in South Dakota's Title V air quality permit program. Changes are proposed to remove language referring to air pollution dispersion modeling or other dispersion techniques from the standards for issuance of a Part 70 operating permit. These changes involve section 74:36:05:06.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve sections 74:36:05:04 and 74:36:05:16.01.

The proposed changes to Chapter 74:36:05 may be observed in Appendix A.

## **7.0 Chapter 74:36:06 – Regulated Air Pollutant Emissions**

Chapter 74:36:06 identifies South Dakota's regulated air pollutants which are established to ensure South Dakota's air quality is in compliance with the federal National Ambient Air Quality Standards. EPA approved sections 74:36:06:01 through 74:36:06:07 of this chapter into South Dakota's SIP.

During the review, it was determined that section 74:36:06:07 references a section in a chapter that was repealed on January 12, 2012. Changes are proposed to correct the reference to the section that replaced the one that was repealed.

The proposed changes to Chapter 74:36:06 may be observed in Appendix A.

## **8.0 Chapter 74:36:07 – New Source Performance Standards**

Chapter 74:36:07 includes all of the federal new source performance standards DENR has adopted by reference to maintain delegation of this program. The following three sections are not delegated, but are included in South Dakota's SIP:

1. 74:36:07:08 – Ash disposal requirements
2. 74:36:07:29 – Operating requirements for wire reclamation furnaces; and

### 3. 74:36:07:30 – Monitoring requirements for wire reclamation furnaces.

The ash disposal requirements are for municipal waste combustors and reference Article 74:27, which are DENR's solid waste requirements. The sections on wire reclamation furnaces were developed to ensure existing wire reclamation furnaces were minimizing air emissions and conducting monitoring to ensure compliance. None of these sections are being revised at this time.

This chapter was last updated in October 2015, when the federal regulations promulgated as of July 1, 2014, were adopted by reference. The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's rules and EPA's federal regulations as of July 1, 2016. There are 99 sections in this chapter. All but five are affected by this proposed revision.

Changes are proposed to the way the New Source Performance Standards are referenced in South Dakota's rules. Changes are proposed to replace the section numbers referencing 40 CFR Part 60 for each subpart with EPA's alphabetical reference for the subpart. The change will ensure that any tables included at the end of a subpart or other changes are incorporated into South Dakota's rules. The proposed change affects 68 sections in this chapter.

The proposed changes to Chapter 74:36:07 may be observed in Appendix A.

## **9.0 Chapter 74:36:08 – National Emission Standards for Hazardous Air Pollutants**

Chapter 74:36:08 includes the federal regulations DENR has adopted by reference to maintain delegation of federal standards applicable to hazardous air pollutants.

The revision process for chapter 74:36:08 is similar to the revision process for chapter 74:36:07. The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's rules and EPA's federal regulations as of July 1, 2016. There are 138 sections in this chapter. All but the first section are being revised.

The proposed changes to Chapter 74:36:08 may be observed in Appendix A.

## **10.0 Chapter 74:36:09 – Prevention of Significant Deterioration**

Chapter 74:36:09 is DENR's Prevention of Significant Deterioration preconstruction permit program for large sources in areas of the state that attain the federal National Ambient Air Quality Standards identified in Chapter 74:36:02. Facilities in the past that have been subject to this type of permit are the Big Stone II coal-fired power plant project in 2008 and the Hyperion oil refinery project in 2009. EPA approved the Prevention of Significant Deterioration preconstruction permit program in South Dakota's SIP. The Prevention of Significant

Deterioration preconstruction permit program consists of sections 74:36:09:01 through 74:36:09:03 of this chapter.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve sections 74:36:09:02 and 74:36:09:03.

On June 14, 2016, EPA proposed revisions to the Permit Rescission provision in the federal Prevention of Significant Deterioration regulations at 40 CFR § 52.21(w). The revisions remove a date restriction from this provision, clarify that a rescission of a permit is contingent on the reviewing authority's concurrence with a rescission applicant's demonstration that the Prevention of Significant Deterioration permit provisions "would not apply to the source or modification," and correct an outdated cross-reference to another part of the Prevention of Significant Deterioration regulations. The revisions were published in the Federal Register on November 7, 2016. Changes are proposed to revise South Dakota's SIP to be consistent with the federal regulation. These changes involve section 74:36:09:02(6).

The proposed changes to Chapter 74:36:09 may be observed in Appendix A.

## **11.0 Chapter 74:36:10 – New Source Review**

Chapter 74:36:10 is DENR's new Source Review preconstruction permit program for large sources in areas of the state that are not attaining the federal National Ambient Air Quality Standards identified in Chapter 74:36:02. All of the state of South Dakota is in attainment with the federal National Ambient Air Quality Standards; therefore, no facilities require a preconstruction permit under this program. EPA approved sections 74:36:10:01 through 74:36:10:08 of this chapter into South Dakota's SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve the following sections:

1. 74:36:10:02;
2. 74:36:10:03.01;
3. 74:36:10:05;
4. 74:36:10:07; and
5. 74:36:10:08.

The proposed changes to Chapter 74:36:10 may be observed in Appendix A.

## **12.0 Chapter 74:36:11 – Performance Testing**

Chapter 74:36:11 identifies the performance testing requirements used by permitted facilities to demonstrate compliance with permit limits. EPA approved sections 74:36:11:01 through 74:36:11:04 of this chapter into South Dakota's SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve section 74:36:11:01.

The proposed changes to Chapter 74:36:11 may be observed in Appendix A.

### **13.0 Chapter 74:36:12 – Control of Visible Emissions**

Chapter 74:36:12 identifies visible emission limits for units that emit air pollution. EPA approved sections 74:36:12:01 through 74:36:12:03 of this chapter into South Dakota's SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These changes involve sections 74:36:12:01 and 74:36:12:03.

The proposed changes to Chapter 74:36:12 may be observed in Appendix A.

### **14.0 Chapter 74:36:13 – Continuous Emission Monitoring Systems**

Chapter 74:36:13 identifies the continuous emission monitoring requirements for sources required to install continuous monitoring equipment by the Secretary. EPA approved sections 74:36:13:01 through 74:36:13:07 of this chapter into South Dakota's SIP.

Section 74:36:13:08 is not part of South Dakota's SIP but was approved by EPA as part of South Dakota's Title V air quality operating permit program noted in Chapter 74:36:05.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP, approved Title V permitting program, and EPA's federal regulations as of July 1, 2016. These changes involve the following sections:

1. 74:36:13:02;
2. 74:36:13:03;
3. 74:36:13:04;
4. 74:36:13:06;
5. 74:36:13:07; and
6. 74:36:13:08.

The proposed changes to Chapter 74:36:13 may be observed in Appendix A.

## **15.0 Chapter 74:36:16 – Acid Rain Program**

South Dakota’s Acid Rain Program is similar to Chapter 74:36:07 – New source performance standards and Chapter 74:36:08 – National emission standards for hazardous air pollutants. This chapter is delegated to South Dakota by EPA.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota’s SIP and EPA’s federal regulations as of July 1, 2016. These changes involve the following sections:

1. 74:36:16:01;
2. 74:36:16:02;
3. 74:36:16:04; and
4. 74:36:16:05.

The proposed changes to Chapter 74:36:16 may be observed in Appendix A.

## **16.0 Chapter 74:36:18 – Regulations for State Facilities in the Rapid City Area**

Chapter 74:36:18 is part of South Dakota’s SIP and EPA approved sections 74:36:18:01 through 74:36:18:12 of this chapter into South Dakota’s SIP.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota’s SIP and EPA’s federal regulations as of July 1, 2016. These changes involve section 74:36:18:10.

The proposed changes to Chapter 74:36:18 may be observed in Appendix A.

## **17.0 Chapter 74:36:20 – Construction Permits for New Sources or Modifications**

Chapter 74:36:20 requires an air quality construction permit for new businesses/facilities and existing businesses/facilities that modify their operations that do not meet the requirements for obtaining a preconstruction permit in Chapters 74:36:09 and 74:36:10. DENR submitted Chapter 74:36:20 to EPA for inclusion in South Dakota’s SIP. EPA approved Chapter 74:36:20 in South Dakota’s SIP on June 27, 2014, except for the phrase, “unless it meets the requirements in section 74:36:20:02.01,” and all of section 74:36:02.01. When the rules were last revised in October 2015, DENR removed the phrase “unless it meets the requirements in section 74:36:20:02.01,” and changed section 74:36:20:02.01 to limit what can be constructed prior to the issuance of the construction permit to what EPA has allowed.



Changes are proposed to the standard for issuance of a construction permit. During a permitting action, a question arose whether the air dispersion modeling language in section 74:36:20:05 requires modeling for all permit applicants. DENR has interpreted the modeling language to mean that air dispersion modeling is an option, if necessary, to determine whether a new construction project will cause or contribute to an exceedance of the National Ambient Air Quality Standards. DENR has used several methods and data (e.g. ambient monitoring data, emission inventories, air dispersion modeling, or a combination of these data in a comparative analysis) to make a determination whether a project would prevent or interfere with the attainment or maintenance of a National Ambient Air Quality Standard. Therefore, DENR proposes to clarify that air dispersion modeling is an option, not a requirement. In addition, changes include reference to guidance for performing air dispersion modeling, if air dispersion modeling is required, to demonstrate that the source will not prevent or interfere with the attainment or maintenance of an applicable national ambient air quality standard. The proposed changes involve section 74:36:20:05.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. These proposed changes involve section 74:36:20:05.

The proposed changes to Chapter 74:36:20 may be observed in Appendix A.

## **18.0 Chapter 74:36:21 – Regional Haze Program**

Chapter 74:36:21 contains the requirements DENR agreed to as part of South Dakota's Regional Haze Program. EPA approved sections 74:36:21:01 through 74:36:21:12 of this chapter into South Dakota's SIP.

Proposed changes include that a construction permit for a new major source or modification to a major source will be issued only after the source has demonstrated that it will not contribute to adverse impact on visibility in any mandatory class I federal area. Changes include reference to guidance for performing air dispersion modeling if air dispersion modeling is required to demonstrate no adverse impact on visibility. These changes involve section 74:36 21:04.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2016. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2016. The proposed changes involve the following sections:

1. 74:36:21:02;
2. 74:36:21:04;
3. 74:36:21:05; and
4. 74:36:21:09.

The proposed changes to Chapter 74:36:21 may be observed in Appendix A.

**Appendix A**  
**Proposed Amendments**  
**To**  
**ARSD 74:36 – Air Pollution Control Program**

## 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.
- 74:36:21 Regional haze program.

## **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.
- 74:36:01:10.01 Insignificant increase in allowable emissions.

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 defined.
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 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 § 74:36:01:15;

(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, 2014~~ July 1, 2016);

(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, 42 U.S.C. 7401 et seq., as amended through January 1, 2010;

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

(25) "EPA," 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 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, 2014~~ July 1, 2016), requirements within the state implementation plan, and permit requirements established pursuant to this article or 40 C.F.R. § 51 Subpart I (~~July 1, 2014~~ July 1, 2016). 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) "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;

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

(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;

(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;

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

(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;

(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;

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

(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;

(40) "NSR," new source review;

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

(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;

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

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

(45) Repealed;

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

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

(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;

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

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

(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;

(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;

(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;

(54) "PSD," prevention of significant deterioration;

(55) Repealed;

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

(57) "Secretary," the secretary of the South Dakota Department of Environment and Natural Resources or an authorized representative;

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

(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;

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

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

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

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

- (64) "Title V," Title V of the Clean Air Act Amendments, permits;
- (65) "Title VI," Title VI of the Clean Air Act Amendments, stratospheric ozone protection;
- (66) Repealed;
- (67) "VOC," "volatile organic compounds," as defined in 40 C.F.R. § 51.100(s) (~~July 1, 2014~~ July 1, 2016);
- (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;
- (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;
- (70) "SO<sub>2</sub>," sulfur dioxide;
- (71) "NO<sub>2</sub>," nitrogen dioxide;
- (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; and

(73) "Subject to regulation," subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Greenhouse gases are not subject to regulation unless a PSD preconstruction permit is issued regulating greenhouse gases in accordance with chapter 74:36:09.

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

**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.

**74:36:01:05. 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, 2014~~ July 1, 2016);

(2) Any term or condition of any preconstruction permits issued pursuant to regulations approved through rulemaking under Title I, including Parts C or D, of the Clean Air Act;

(3) Any standard or other requirement under § 111 of the Clean Air Act, including § 111(d);

(4) Any standard or other requirement under § 112 of the Clean Air Act, including any requirement concerning accident prevention under § 112(r)(7) of the Clean Air Act;

(5) Any standard or other requirement of the acid rain program under Title IV of the Clean Air Act or the regulations promulgated under it;

(6) Any monitoring, reporting, and certification requirements established pursuant to § 504(b) or 114(a)(3) of the Clean Air Act;

(7) Any standard or other requirement governing solid waste incineration, under § 129 of the Clean Air Act;

(8) Any standard or other requirement for consumer and commercial products, under § 183(e) of the Clean Air Act;

(9) Any standard or other requirement for tank vessels, under § 183(f) of the Clean Air Act;

(10) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under § 328 of the Clean Air Act;

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

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

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:01:20. Physical change in or change in the method of operation defined.** A physical change in or 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, 2014~~ [July 1, 2016](#)), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (~~July 1, 2014~~ [July 1, 2016](#));

(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, 2014~~ [July 1, 2016](#)), or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I, or 40 C.F.R. § 51.166 (~~July 1, 2014~~ [July 1, 2016](#)); 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, 2014~~ [July 1, 2016](#)) or under regulations approved pursuant to 40 C.F.R. § 51.165 (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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.

**74:36:02:02. Ambient air quality standards.** The ambient air quality standards listed in 40 C.F.R. §§ 50.1 to 50.5, inclusive, (~~July 1, 2014~~ July 1, 2016); 40 C.F.R. § 50.6 (~~July 1, 2014~~ July 1, 2016); 40 C.F.R. § 50.7(a)(1), (b), and (c) (~~July 1, 2014~~ July 1, 2016); 40 C.F.R. § 50.8 and 40 C.F.R. §§ 50.10 to 50.12, inclusive, (~~July 1, 2014~~ July 1, 2016), 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ July 1, 2016) shall be measured by the reference ~~July 1, 2014~~ July 1, 2016 method or methods stated in 40 C.F.R. Part 50, Appendix A to Appendix N, inclusive, (~~July 1, 2014~~ July 1, 2016) or an equivalent method designated in accordance with 40 C.F.R. Part 53 (~~July 1, 2014~~ July 1, 2016).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). Records of monitoring activities and results shall be retained for a minimum of three years.

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

**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, 2014~~ [July 1, 2016](#)), if the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of the public.

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

**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, 2014~~ [July 1, 2016](#)). The department shall reevaluate the contingency plan in accordance with the requirements in 40 C.F.R. § 51.153 (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207,

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

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

**Law Implemented:** SDCL 34A-1-15.

## **CHAPTER 74:36:04**

### **OPERATING PERMITS FOR MINOR SOURCES**

#### Section

74:36:04:01	Applicability.
74:36:04:02	Minor source operating permit required.
74:36:04:02.01	Minor source operating permit exemption.
74:36:04:03	Emission unit exemptions.
74:36:04:03.01	Repealed.
74:36:04:04	Standard for issuance of a minor source operating permit.
74:36:04:05	Time period for operating permits and renewals.
74:36:04:06	Timely and complete application for operating permit required.
74:36:04:07	Required contents of complete application for operating permit.
74:36:04:08	Applicant required to supplement or correct application.
74:36:04:09	Permit application -- Completeness review.

74:36:04:10	Time period for department's recommendation.
74:36:04:11	Repealed.
74:36:04:12	Public participation in permitting process.
74:36:04:12.01	Public review of department's draft permit.
74:36:04:13	Final permit decision -- Notice to interested persons.
74:36:04:14	Right to petition for contested case hearing.
74:36:04:15	Contents of operating permit.
74:36:04:16	Operating permit expiration.
74:36:04:17	Renewal of operating permit.
74:36:04:18	Operating permit revision.
74:36:04:19	Administrative permit amendment.
74:36:04:20	Procedures for administrative permit amendments.
74:36:04:20.01	Minor permit amendment required.
74:36:04:20.02	Requirements for minor permit amendment.
74:36:04:20.03	Application for minor permit amendment.
74:36:04:20.04	Department deadline to approve minor permit amendment.
74:36:04:21	Permit modifications.
74:36:04:21.01	Alternative permit modification procedure.
74:36:04:22	Source status change -- New permit required.
74:36:04:23	Reopening operating permit for cause.
74:36:04:24	Procedures to reopen operating permit.
74:36:04:25	Repealed.
74:36:04:26	Repealed

74:36:04:27	Operating permit termination, revision, and revocation.
74:36:04:28	Notice of operating noncompliance -- Contents.
74:36:04:29	Petition for contested case on alleged violation.
74:36:04:30	Repealed.
74:36:04:31	Circumvention of emissions not allowed.
74:36:04:32	General permits.
74:36:04:33	Secretary may require an individual permit.

**74:36:04:04. Standard for issuance of a minor source operating permit.** ~~An operating permit for a source or permit revision may be issued only if it has been shown that the operation of the source or permit 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 not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2014). Each source must comply with emission limits and other requirements of the act and the Clean Air Act.~~ The minor source operating permit must include reasonable conditions, including adherence to plans and specifications, to assure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

**Source:** 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:08.02; transferred from § 44:10:01:12, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72,

effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:12, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

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

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

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

## **CHAPTER 74:36:05**

### **OPERATING PERMITS FOR PART 70 SOURCES**

#### Section

74:36:05:01	Applicability.
74:36:05:02	Part 70 operating permit required.
74:36:05:03	Sources required to obtain a Part 70 operating permit.
74:36:05:03.01	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 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	Transferred.
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	Transferred
74:36:05:26	Transferred
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.
74:36:05:39.01	Alternative permit modification procedure.
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.

**74:36:05:04. 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, 2014~~ [July 1, 2016](#)) are exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart AAA. Exempted sources must still meet the applicable requirements in Subpart AAA; or



(3) Sources that operate a unit subject to 40 C.F.R. § 61.145, Standard for Demolition and Renovation (~~July 1, 2014~~ July 1, 2016) are exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. § 61.145 (~~July 1, 2014~~ July 1, 2016). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 61.145 (~~July 1, 2014~~ July 1, 2016).

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

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

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

**74:36:05:06. Standard for issuance of a Part 70 operating permit.** ~~A Part 70 operating permit for a source or permit revision may be issued only if it has been shown that the operation of the source or permit 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 not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2014). Each source must comply with emission limits and other requirements of the act and the Clean Air Act.~~ A Part 70 operating permit must include reasonable conditions, including

adherence to plans and specifications, to assure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

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

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

**Law Implemented:** SDCL 34A-1-19, 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 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) 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 the 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 the 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 record keeping 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) Record keeping 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, permit revision, or 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 revised, revoked and reissued, reopened, or terminated for cause. The filing of a request by the permittee for a permit 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 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, 2014~~ [July 1, 2016](#));

(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, 2014~~ [July 1, 2016](#)); 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

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

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

## 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.

**74:36:06:07. 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~~ [74:12:04:11](#) and the secretary approves the alternative remediation process;

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

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

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

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

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

**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.
- 74:36:07:91 Standards of performance for nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011.
- 74:36:07:92 Standards of performance for new sewage sludge incineration units.
- 74:36:07:93 Standards of performance for crude oil and natural gas production, transmission and distribution.

**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, § 60 Subpart A~~ (~~July 1, 2014~~ July 1, 2016). For the purposes of this chapter, "administrator" means the secretary, except for those authorities that cannot be delegated to the state, in which case "administrator" means both the administrator of the Environmental Protection Agency and the secretary.

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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,~~  § 60 Subpart D (July 1, 2014 July 1, 2016).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, Subpart Da ( ~~July 1, 2014~~  July 1, 2016).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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,~~ [§ 60 Subpart Db](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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.  ~~§§ 60.40e to 60.48e, inclusive, § 60 Subpart Dc (July 1, 2014 July 1, 2016)~~. A source that operates a unit subject to 40 C.F.R.  ~~§§ 60.40e to 60.48e, inclusive, § 60 Subpart Dc (July 1, 2014 July 1, 2016)~~ is exempt from the obligation to obtain a Part 70 operating permit, if 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 40 C.F.R.  ~~§§ 60.40e to 60.48e, inclusive, § 60 Subpart Dc (July 1, 2014 July 1, 2016)~~. Exempted sources must still meet the applicable requirements in 40 C.F.R.  ~~§§ 60.40e to 60.48e, inclusive, § 60 Subpart Dc (July 1, 2014 July 1, 2016)~~.

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

**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, § 60 Subpart E (July 1, 2014 July 1, 2016)~~.

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)), is incorporated into this rule by reference. Designated facilities under Subpart Ce shall comply with the requirements for state plan approval in 40 C.F.R. §§ 60.32e to 60.38e, inclusive, (~~July 1, 2014~~ [July 1, 2016](#)).

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, 2014~~ July 1, 2016) 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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. ~~§§ 60.50e to 60.58e~~ [§ 60 Subpart Ec](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart Ea](#) (~~July 1, 2014~~ [July 1, 2016](#)).



**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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,~~ [§ 60 Subpart Eb \(July 1, 2014 July 1, 2016\)](#).

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

**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,~~ [§ 60 Subpart F](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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,~~ [§ 60 Subpart I](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, § 60 Subpart K (July 1, 2014 July 1, 2016)~~. A source that operates a unit subject to 40 C.F.R. ~~§§ 60.110 to 60.113, inclusive, § 60 Subpart K (July 1, 2014 July 1, 2016)~~ is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. ~~§§ 60.110 to 60.113, inclusive, § 60 Subpart K (July 1, 2014 July 1, 2016)~~. Exempted sources must still meet the applicable requirements in 40 C.F.R. ~~§§ 60.110 to 60.113, inclusive, § 60 Subpart K (July 1, 2014 July 1, 2016)~~.

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

**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,~~ [§ 60 Subpart Ka](#) (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to 40 C.F.R. ~~§§ 60.110a to 60.115a, inclusive,~~ [§ 60 Subpart Ka](#) (~~July 1, 2014~~ [July 1, 2016](#)) is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. ~~§§ 60.110a to 60.115a, inclusive,~~ [§ 60 Subpart Ka](#) (~~July 1, 2014~~ [July 1, 2016](#)). Exempted sources must still meet the applicable requirements in 40 C.F.R. ~~§§ 60.110a to 60.115a, inclusive,~~ [§ 60 Subpart Ka](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart Kb](#) (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to 40 C.F.R. ~~§§ 60.110b to 60.117b, inclusive,~~ [§ 60 Subpart Kb](#) (~~July 1, 2014~~ [July 1, 2016](#)) is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. ~~§§ 60.110b to 60.117b, inclusive,~~ [§ 60 Subpart Kb](#) (~~July 1, 2014~~ [July 1, 2016](#)). Exempted sources must still meet the applicable requirements in 40 C.F.R. ~~§§ 60.110b to 60.117b, inclusive,~~ [§ 60 Subpart Kb](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:25:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, §~~ [60 Subpart O](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:16. Standards of performance for coal preparation plants.** The standards of performance for coal preparation plants are those in 40 C.F.R. § 60, Subpart Y (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:16:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR

217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, § 60 Subpart DD (July 1, 2014 July 1, 2016)~~. A source subject to 40 C.F.R. ~~§§ 60.300 to 60.304, inclusive, § 60 Subpart DD (July 1, 2014 July 1, 2016)~~ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. ~~§§ 60.300 to 60.304, inclusive, § 60 Subpart DD (July 1, 2014 July 1, 2016)~~. Exempted sources must still meet the applicable requirements in 40 C.F.R. ~~§ 60.300 to 60.304, inclusive, § 60 Subpart DD (July 1, 2014 July 1, 2016)~~.

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

**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, §~~ [60 Subpart GG](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [60 Subpart HH](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:18:10, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR



217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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,~~ [§ 60 Subpart LL](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart RR](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ § 60 Subpart VV (July 1, 2014 July 1, 2016).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:22.01. Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after November 7, 2006.** The standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry, for which construction, reconstruction, or modification commenced after November 7, 2006, are those in 40 C.F.R. § 60, Subpart VVa (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [60 Subpart XX](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart AAA](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart JJJ](#) (~~July 1, 2014~~ [July 1, 2016](#)). A source subject to 40 C.F.R. ~~§§ 60.620 to 60.625, inclusive,~~ [§ 60 Subpart JJJ](#) (~~July 1, 2014~~ [July 1, 2016](#)) is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to 40 C.F.R. ~~§§ 60.620 to 60.625, inclusive,~~ [§ 60 Subpart JJJ](#) (~~July 1, 2014~~ [July 1, 2016](#)). Exempted sources must still meet the applicable requirements in 40 C.F.R. ~~§§ 60.620 to 60.625, inclusive,~~ [§ 60 Subpart JJJ](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart NNN](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart OOO](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart SSS](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:31. Standards of performance for graphic arts industry -- Publication rotogravure printing.** The standards of performance for publication rotogravure printing in the graphic arts industry are those in 40 C.F.R.  ~~§§ 60.430 to 60.435, inclusive;~~ [§ 60 Subpart QQ](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:32. Standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes.** The standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes are those in 40 C.F.R. § 60, Subpart RRR (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209,

effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:33. Standards of performance for calciners and dryers in mineral industries.** The standards of performance for calciners and dryers in mineral industries are those in 40 C.F.R. § 60, Subpart UUU (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ July 1, 2016), to determine the landfill nonmethane organic compound emission rate.

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

**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, 2014~~ July 1, 2016), and the control requirements in § 74:36:07:37.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101,

effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#));

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

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

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101,

effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart WWW](#) (~~July 1, 2014~~ [July 1, 2016](#)). Physical or operational changes made to existing municipal solid waste landfills solely to comply with §§ 74:36:07:34 to 74:36:07:42, inclusive, or activities required by or conducted pursuant to a CERCLA, RCRA, or state remedial action are not considered construction, reconstruction, or modification for purposes of this section.

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

**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,~~ [§ 60 Subpart G](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart H](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:46. Standards of performance for petroleum refineries.** The standards of performance for petroleum refineries are those in 40 C.F.R. § 60, Subpart J (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [§ 60 Subpart L](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [§ 60 Subpart M](#) (~~July 1, 2014~~ [July 1, 2016](#)).



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

**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,~~ [§ 60 Subpart N](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart Na](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [60 Subpart P](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [60 Subpart Q](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, §~~ [60 Subpart R](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart S](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart T](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart U](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart V](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart W](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart X](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart Z](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart AAa](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart BB](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart CC](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart EE](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart KK](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart MM](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart NN](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart PP](#) (~~July 1, 2014~~ [July 1, 2016](#)).



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

**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,~~ [§ 60 Subpart SS](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart TT](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart UU](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart WW](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart BBB](#) (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 1010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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,~~ [§ 60 Subpart DDD \(July 1, 2014 July 1, 2016\)](#).

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

**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,~~ [§ 60 Subpart FFF \(July 1, 2014 July 1, 2016\)](#).

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

**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,~~ § 60 Subpart GGG (~~July 1, 2014~~ July 1, 2016).

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

**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, 2014~~ July 1, 2016).

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

**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,~~ [§ 60 Subpart HHH](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart III](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart KKK](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart LLL](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~ [§ 60 Subpart PPP](#) (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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,~~  § 60 Subpart QQQ (July 1, 2014 July 1, 2016).

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

**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,~~  § 60 Subpart TTT (July 1, 2014 July 1, 2016).

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

**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, § 60 Subpart VVV~~ (July 1, 2014 July 1, 2016).

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

**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, 2014~~ July 1, 2016),

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:88. Standards of performance for stationary compression ignition internal combustion engines.** The standards of performance for stationary compression ignition internal combustion engines are those in 40 C.F.R. § 60, Subpart IIII (~~July 1, 2014~~ [July 1, 2016](#)). A source subject to Subpart IIII is exempt from the obligation to obtain a Part 70 operating permit

if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart III. Exempted sources must still meet the applicable requirements in Subpart III.

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). A source subject to Subpart JJJJ is exempt from the obligation to obtain a Part 70 operating permit if the source is not

required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart JJJJ. Exempted sources must still meet the applicable requirements in Subpart JJJJ.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:91. Standards of performance for nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011.** The standards of performance for nitric acid plants are those in 40 C.F.R. § 60, Subpart Ga (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:92. Standards of performance for new sewage sludge incineration units.** The standards of performance for new sewage sludge incineration units are those in 40 C.F.R. § 60, Subpart LLLL (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:93. Standards of performance for crude oil and natural gas production, transmission and distribution.** The standards of performance for crude oil and natural gas production, transmission, and distribution are those in 40 C.F.R. § 60, Subpart OOOO (~~July 1, 2014~~ July 1, 2016).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

## CHAPTER 74:36:08

### NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

#### Section

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- 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.
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- 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 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.
- 74:36:08:122 National emission standards for coal- and oil-fired electric utility steam generating units.
- 74:36:08:123 National emission standards for industrial, commercial, and institutional boilers area sources.
- 74:36:08:124 National emission standards for chemical manufacturing area sources.
- 74:36:08:125 National emission standards for asphalt processing and asphalt roofing manufacturing area sources.
- 74:36:08:126 National emission standards for chemical preparations industry area sources.
- 74:36:08:127 National emission standards for paints and allied products manufacturing area sources.
- 74:36:08:128 National emission standards for prepared feeds manufacturing area sources.
- 74:36:08:129 National emission standards for gold mine ore processing and production area sources.
- 74:36:08:130 National emission standards for polyvinyl chloride and copolymers production.

**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, Subpart A (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

**Source:** 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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 Subpart J (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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. § 63 Subpart A (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart B (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, Subpart M (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit



subject to Subpart M is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart M. Exempted sources must still meet the applicable requirements in Subpart M.

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)). An area source that operates a unit subject to Subpart N is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart N. Exempted sources must still meet the applicable requirements in Subpart N.

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

**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, Subpart O (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart O is exempt from the obligation to obtain a Part 70 operating

permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart O. Exempted sources must still meet the applicable requirements in Subpart O.

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

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart Q is exempt from the obligations to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart Q. Exempted sources must still meet the applicable requirements in Subpart Q.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13,

2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)). An area source that operates a unit subject to Subpart T is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart T. Exempted sources must still meet the applicable requirements in Subpart T.

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, Subpart OO (~~July 1, 2014~~ [July 1, 2016](#)). The national emission standards for tanks -- level 2 are those in 40 C.F.R. § 63, Subpart WW (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart PP (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart QQ (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart RR (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart VV (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart SS (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart TT (~~July 1, 2014~~ [July 1, 2016](#)). The national emission standards for equipment leaks -- control level 2 are those in 40 C.F.R. § 63, Subpart UU (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart HH is exempt from the obligation to obtain a Part 70 operating permit if the unit is not required to install controls and if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart HH. Exempted sources must still meet the applicable requirements in Subpart HH.

**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; 36 SDR 207,

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207,

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart GGGG (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207,

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart JJJ (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart AAAA (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207,



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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 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, Subpart RRRR (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart FFFFF (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart JJJJ (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart LLLLL (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart MMMMM (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart PTTTT (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart MMMM (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart WWWW (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart YYYY (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart ZZZZ (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart DDDDD (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, Subpart J (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, Subpart X (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, Subpart YY (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 212, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:93. National emission standards for flexible polyurethane foam production.** The national emission standards for flexible polyurethane foam production are those in 40 C.F.R. § 63, Subpart III (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart DDDDDD is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart DDDDDD. Exempted sources must still meet the applicable requirements in Subpart DDDDDD.

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

**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 EEEEE (July 1, 2014 [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart WWWW is exempt from the obligation to obtain a Part 70 operating permit if the source is not

required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart WWWW. Exempted sources must still meet the applicable requirements in Subpart WWWW.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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 YYYY (July 1, 2014 [July 1, 2016](#)).

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

**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 ZZZZ (July 1, 2014 [July 1, 2016](#)). A source that operates a unit subject to Subpart ZZZZ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to

Subpart *ZZZZZ*. Exempted sources must still meet the applicable requirements in Subpart *ZZZZZ*.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart BBBBBB is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart BBBBBB. Exempted sources must still meet the applicable requirements in Subpart BBBBBB.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart CCCCCC is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart CCCCCC. Exempted sources must still meet the applicable requirements in Subpart CCCCCC.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart HHHHHH is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart HHHHHH. Exempted sources must still meet the applicable requirements in Subpart HHHHHH.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart LLLLLL is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart LLLLLL. Exempted sources must still meet the applicable requirements in Subpart LLLLLL.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart NNNNNN is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart NNNNNN. Exempted sources must still meet the applicable requirements in Subpart NNNNNN.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart OOOOOO is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart OOOOOO. Exempted sources must still meet the applicable requirements in Subpart OOOOOO.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart PPPPPP is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart PPPPPP. Exempted sources must still meet the applicable requirements in Subpart PPPPPP.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart QQQQQQ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart QQQQQQ. Exempted sources must still meet the applicable requirements in Subpart QQQQQQ.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart RRRRRR is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart RRRRRR. Exempted sources must still meet the applicable requirements in Subpart RRRRRR.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart TTTTTT is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart TTTTTT. Exempted sources must still meet the applicable requirements in Subpart TTTTTT.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart WWWWWW is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is

subject to Subpart WWWW. Exempted sources must still meet the applicable requirements in Subpart WWWW.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart XXXXXX is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart XXXXXX. Exempted sources must still meet the applicable requirements in Subpart XXXXXX.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart YYYYYY is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart YYYYYY. Exempted sources must still meet the applicable requirements in Subpart YYYYYY.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart ZZZZZZ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart ZZZZZZ. Exempted sources must still meet the applicable requirements in Subpart ZZZZZZ.

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.



**74:36:08:122. National emission standards for coal- and oil-fired electric utility steam generating units.** The national emission standards for coal- and oil-fired electric utility steam generating units are those in 40 C.F.R. § 63, Subpart UUUUU (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:123. National emission standards for industrial, commercial, and institutional boilers area sources.** The national emission standards for industrial, commercial, and institutional boilers area sources are those in 40 C.F.R. § 63, Subpart JJJJJ (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart JJJJJ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart JJJJJ. Exempted sources must still meet the applicable requirements in Subpart JJJJJ.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:124. National emission standards for chemical manufacturing area sources.** The national emission standards for chemical manufacturing area sources are those in 40 C.F.R.

§ 63, Subpart VVVVVV (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart VVVVVV is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart VVVVVV. Exempted sources must still meet the applicable requirements in Subpart VVVVVV.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:125. National emission standards for asphalt processing and asphalt roofing manufacturing area sources.** The national emission standards for asphalt processing and asphalt roofing manufacturing area sources are those in 40 C.F.R. § 63, Subpart AAAAAAA (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart AAAAAAA is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart AAAAAAA. Exempted sources must still meet the applicable requirements in Subpart AAAAAAA.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:126. National emission standards for chemical preparations industry area sources.** The national emission standards for chemical preparations industry area sources are those in 40 C.F.R. § 63, Subpart BBBBBBB (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart BBBBBBB is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart BBBBBBB. Exempted sources must still meet the applicable requirements in Subpart BBBBBBB.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:127. National emission standards for paints and allied products manufacturing area sources.** The national emission standards for paints and allied products manufacturing area sources are those in 40 C.F.R. § 63, Subpart CCCCCC (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart CCCCCC is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart CCCCCC. Exempted sources must still meet the applicable requirements in Subpart CCCCCC.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:128. National emission standards for prepared feeds manufacturing area sources.** The national emission standards for prepared feeds manufacturing area sources are those in 40 C.F.R. § 63, Subpart DDDDDDD (~~July 1, 2014~~ [July 1, 2016](#)). A source that operates a unit subject to Subpart DDDDDDD is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart DDDDDDD. Exempted sources must still meet the applicable requirements in Subpart DDDDDDD.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:129. National emission standards for gold mine ore processing and production area sources.** The national emission standards for gold mine ore processing and production area sources are those in 40 C.F.R. § 63, Subpart EEEEEEE (~~July 1, 2014~~ [July 1, 2016](#)).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:130. 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, Subpart HHHHHHH (July 1, 2014 ~~July 1, 2016~~).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

## 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.

**74:36:09:02. 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, 2014~~ July 1, 2016), except for 40 C.F.R. § 52.21(a)(1), (a)(2)(iv)(e), (b)(2)(iii)(h), (b)(3)(iii)(b), (b)(32), (b)(42), (b)(49)(v), (b)(55), (b)(56), (b)(57), (b)(58), (f), (k)(2), (q), (s), (t), (u), (x), (y), (z), and (cc) (~~July 1, 2014~~ July 1, 2016) 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(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";

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

(6) For the purposes of this section, 40 C.F.R. § 52.21(w)(1) **through (w)(3), inclusive,** is incorporated by reference ~~excluding the phrase, "expires under paragraph (s) of this section or"~~ **as amended and published in 81 Fed. Reg. 78048 (November 7, 2016);**

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

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

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

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

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

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

**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, 2014~~ [July 1, 2016](#)), excluding the phrase "The plan shall provide that..." with the following differences:

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



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

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

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

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

(6) For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(viii), if a request for a contested case hearing is not submitted during the public notice period, the secretary shall make a final determination within 30 days of the end of the public comment period on the draft permit. The secretary shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final determination. The notice shall include reference to the

procedures for contesting the final determination and requesting a hearing in accordance with article 74:09 within 30 days of receiving the secretary's final determination. If no person comments on a draft permit, requests changes, or contests the draft permit during the public notice period, the draft permit automatically becomes the secretary's final determination and is issued at the end of the public notice period.

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

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

**Law Implemented:** SDCL 34A-1-18.

## **CHAPTER 74:36:10**

### **NEW SOURCE REVIEW**

#### Section

74:36:10:01	Applicability.
74:36:10:02	Definitions.
74:36:10:03	Repealed.
74:36:10:03.01	New source review preconstruction permit required.
74:36:10:04	Repealed.

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

**74:36:10:02. Definitions.** For the purposes of this chapter, the definitions for new source review are those in 40 C.F.R. § 51.165(a)(1), except for the second sentence of 40 C.F.R. § 51.165(a)(1)(v)(C)(1), and 40 C.F.R. § 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(xliv), (a)(1)(xlv), and (a)(1)(xlvi) (~~July 1, 2014~~ July 1, 2016).

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

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

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

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

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

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

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

Except as provided by a plant-wide applicability limit, a proposed project is considered a major modification to an existing major source if the proposed project meets the criteria in 40 C.F.R. § 51.165(a)(2)(ii)(A) to (F), inclusive, (~~July 1, 2014~~ [July 1, 2016](#)).

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

**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.

**74:36:10:05. 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 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, 2014~~ July 1, 2016).

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

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

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

**General Authority:** SDCL 34A-1-6.

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

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

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

(1) All offsets must be for the same regulated NSR pollutant, result in a net positive air quality benefit in the affected area, and be approved by the department before issuance of the permit, even though they need not be in effect until the source commences operation. The offset ratio of total actual emissions reductions to the emissions increase shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the offset requirements in 40 C.F.R. § 51.165(a)(9)(ii) through 51.165(a)(9)(iv) (~~July 1, 2014~~ [July 1, 2016](#));

(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, 2014~~ [July 1, 2016](#));

(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, 2014~~ July 1, 2016), emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity;



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

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

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

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

**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 (vi), inclusive,

(~~July 1, 2014~~ July 1, 2016). This section does not apply to a source with a plant-wide applicability limit.

The owner or operator shall make the information required to be documented in 40 C.F.R. § 51.165(a)(6)(i) to (vi), inclusive, (~~July 1, 2014~~ July 1, 2016) 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, 2014~~ July 1, 2016).

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

**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, 2014~~ [July 1, 2016](#)).

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

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

**Law Implemented:** SDCL 34A-1-12.

## 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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)).

**Source:** 8 SDR 133, effective April 18, 1982; 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:03:05, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

## **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.

**74:36:13:02. 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, 2014~~ [July 1, 2016](#)).

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

**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, 2014~~ [July 1, 2016](#)). All records must be made available to the department on request.

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

**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, 2014~~ [July 1, 2016](#)) 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

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

**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, 2014~~ July 1, 2016) 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, 2014~~ July 1, 2016);

(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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ July 1, 2016), must comply with 40 C.F.R. §§ 64.1 and 64.3 to 64.10, inclusive, (~~July 1, 2014~~ July 1, 2016).

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

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

**Law Implemented:** SDCL 34A-1-12.

## 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, 2014~~ [July 1, 2016](#)) 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, 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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

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

**Law Implemented:** SDCL 34A-1-18.

**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, 2014~~ [July 1, 2016](#)) and Appendixes A to H, inclusive, to 40 C.F.R. Part 75 (~~July 1, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**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, 2014~~ [July 1, 2016](#)).

**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; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

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

**Law Implemented:** SDCL 34A-1-18.

## **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.

**74:36:18:10. Visible emission limit for construction and continuous operation activities.** The owner or operator of a state facility or state contractor may not discharge into the ambient air from a fugitive source an air pollutant of a density equal to or greater than that designated as 20 percent opacity for a series of two minute averages with a minimum of a total of six minutes of readings. The Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (~~July 1, 2014~~ [July 1, 2016](#)) shall be used to determine the opacity.

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

**General Authority:** SDCL 34A-1-6.

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

## **CHAPTER 74:36:20**

### **CONSTRUCTION PERMITS FOR NEW SOURCES OR MODIFICATIONS**

#### Section

74:36:20:01     Applicability.

74:36:20:02     Construction permit required.

74:36:20:02.01   Initiating construction prior to permit issuance.

- 74:36:20:03 Construction permit exemption.
- 74:36:20:04 Emission unit exemptions.
- 74:36:20:05 Standard for issuance of construction permit.
- 74:36:20:05.01 Procedures for an insignificant increase in allowable emissions.
- 74:36:20:06 Timely and complete application for a construction permit required.
- 74:36:20:07 Required contents of complete application for a construction permit.
- 74:36:20:08 Applicant required to supplement or correct application.
- 74:36:20:09 Permit application -- Completeness review.
- 74:36:20:10 Time period for department's recommendation.
- 74:36:20:11 Public participation in permitting process.
- 74:36:20:12 Public review of department's draft permit.
- 74:36:20:13 Final permit decision -- Notice to interested persons.
- 74:36:20:14 Right to petition for contested case hearing.
- 74:36:20:15 Contents of construction permit.
- 74:36:20:16 Administrative permit amendment.
- 74:36:20:17 Procedures for administrative permit amendments.
- 74:36:20:18 Reopening construction permit for cause.
- 74:36:20:19 Procedures to reopen construction permit.
- 74:36:20:20 Construction permit does not exempt from other requirements.
- 74:36:20:21 Expiration of a construction permit.
- 74:36:20:22 Notice of constructing or operating noncompliance -- Contents.
- 74:36:20:23 Petition for contested case or alleged violation.
- 74:36:20:24 Circumvention of emissions not allowed.

**74:36:20:05. 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~~ **If** air pollution dispersion modeling **is required, the modeling** shall be ~~based on modeling~~ performed in accordance with **the air quality modeling guidance in** 40 C.F.R. Part 51, Appendix W (~~July 1, 2014~~ **July 1, 2016**) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (~~July 1, 2014~~ **July 1, 2016**). Each new source or modification to an existing source must comply with emission limits and other requirements of the act and the Clean Air Act. The construction permit must include reasonable conditions, including adherence to plans and specifications, to ensure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

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

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

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

## **CHAPTER 74:36:21**

### **REGIONAL HAZE PROGRAM**



## Section

- 74:36:21:01 Applicability.
- 74:36:21:02 Definitions.
- 74:36:21:03 Existing stationary facility defined.
- 74:36:21:04 Visibility impact analysis.
- 74:36:21:05 BART determination.
- 74:36:21:06 BART determination for a BART-eligible coal-fired power plant.
- 74:36:21:07 Installation of controls based on visibility impact analysis or BART determination.
- 74:36:21:08 Operation and maintenance of controls.
- 74:36:21:09 Monitoring, recordkeeping, and reporting.
- 74:36:21:10 Permit to construct.
- 74:36:21:11 Permit required for BART determination.
- 74:36:21:12 Federal land manager notification and review.

**74:36:21:02. Definitions.** Unless otherwise specified, the terms used in this chapter mean:

(1) "Adverse impact on visibility," visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I federal area. Adverse impact on visibility shall be based on a case-by-case

basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with times of visitor use of a mandatory Class I federal area and the frequency and timing of natural conditions that reduce visibility;

(2) "BART," best available retrofit technology;

(3) "Best available retrofit technology" an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonable be anticipated to result from the use of such technology;

(4) "BART-eligible source," an existing stationary facility;

(5) "Coal-fired power plant," any person, corporation, limited liability company, association, company, partnership, political subdivision, municipality, rural electric cooperative, consumers power district, or any group or combination acting as a unit, owning or holding under lease, or otherwise real property used, or intended for use, for the conversion of coal into electric power;

(6) "Contribute to adverse impact on visibility," a change in visibility impairment in a mandatory Class I federal area of five-tenths deciviews or more, based on a 24-hour average, above the average natural visibility baseline. A source exceeds the threshold if the 98<sup>th</sup> percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

(7) "Major source," as defined in § 74:36:01:08(2) and (3);

(8) "Mandatory Class I federal area," any area identified in 40 C.F.R. § 81, Subpart D (~~July 1, 2014~~ [July 1, 2016](#));

(9) "Visibility impairment," any human perceptible change in visibility such as light extinction, visual range, contrast, coloration, from that which would have existed under natural conditions;

(10) "30-day rolling average," expressed as pounds per million Btus and pounds per hour and calculated in accordance with the following procedures:

(a) Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(b) Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(c) Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(d) For pounds per million Btus, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total heat input during the 30-day operating days;

(e) For pounds per hour, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total hours operated during the 30-day operating days.

A new 30-day rolling average shall be calculated for each new operating day. Each 30-day rolling average shall represent all emissions, including emissions that occur during periods of startup, shut down, and malfunction; and

(11) "Operating day," a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted the entire 24-hour period.

**Source:** 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:04. Visibility impact analysis.** ~~The owner or operator of a~~ An air quality construction permit for a new major source or modification to a major source shall demonstrate to the department that the potential to emit from the new major source or modification to a major source may be issued only if it has been shown that the operation of the new major source or modification to a major source will not contribute to adverse impact on visibility in any mandatory Class I federal area. If air pollution dispersion modeling is required, the modeling shall be performed in accordance with the air quality modeling guidance in ~~The demonstration shall be based on visibility models approved in~~ 40 C.F.R. § Part 51, Subpart Appendix W (July 1, 2014 July 1, 2016) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2016).

**Source:** 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:05. BART determination.** The owner or operator of a BART-eligible source that emits any air pollutant which may reasonably be anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area shall submit a BART determination. The BART determination shall follow the procedures outlined in 40 C.F.R. § 51, Subpart Y (~~July 1, 2014~~ July 1, 2016) and must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-

eligible source. In this analysis, the BART determination must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology. The BART determination shall be submitted within nine months after being notified by the department that the existing stationary source is reasonably anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area.

**Source:** 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:09. Monitoring, recordkeeping, and reporting.** The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination shall conduct periodic monitoring, recordkeeping, and reporting. All sulfur dioxide and nitrogen oxides emissions from the BART-eligible source shall be routed to the main stack of a BART-eligible source. The owner or operator of a BART-eligible source shall install, certify, maintain, calibrate, and operate a continuous emission monitoring system for sulfur dioxide and nitrogen oxide in accordance with 40 C.F.R. Part 75 (~~July 1, 2014~~ [July 1, 2016](#)), except the recordkeeping and reporting requirements for the continuous emission monitoring systems shall be in accordance with 40 C.F.R. § 60.7 (~~July 1, 2014~~ [July 1, 2016](#)). Monitoring

and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source shall consist of at least the following:

(1) All emissions monitoring and analysis procedures, alternative approved methods, or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;

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

(3) Documentation of the following:

(a) The date, place, and time of sampling or measurements;

(b) The date or dates analyses were performed;

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

(d) The analytical techniques or methods used;

(e) The results of such analyses; and

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

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

(a) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and

(b) Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions. The probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(5) Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

**Source:** 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.



**Proposed Amendments**  
**ARSD 74:36**  
**Air Pollution Control Program**  
Marlys Heidt  
South Dakota  
Department of Environment and Natural Resources

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**Overview**

- Public Outreach
- Revisions and Corrections
- New Sections

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**Public Outreach**

- Initial Comments Requested (March 2017)
  - Environmental Groups
    - Sierra Club
  - Industry
    - Black Hills Corporation, GCC Dacotah, Otter Tail Power Company, 3M Company, Design Tanks, TransCanada, Redfield Energy, SD Soybean Processors
  - Other Interested Parties

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## Public Outreach

- Public Notice
  - 11 Daily Newspapers
    - Aberdeen, Brookings, Huron, Madison, Mitchell, Pierre, Rapid City, Sioux Falls, Spearfish, Watertown, and Yankton.
  - Websites
    - DENR
    - South Dakota's statewide website for all state agencies
  - 112 Interested Parties
    - Environmental Groups
    - Industry
    - Other Interested Parties

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## Revised Sections

- Changed reference date of July 1, 2014, to July 1, 2016.
  - Chapters 74:36:01 through 74:36:03, 74:36:05, 74:36:07 through 74:36:13, 74:36:16, 74:36:18, 74:36:20 and 74:36:21
- Change how New Source Performance Standards are referenced in South Dakota's rules
  - Currently reference the section numbers in the CFR for each subpart
  - Replace with EPA's alphabetical reference

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## Revised Sections

- Changes to standards for issuance of a construction permit
  - During a permitting action, questions arose about whether air dispersion modeling is required for all applications.
  - ARSD 74:36:20:05 revised to clarify that air dispersion modeling is an option not a requirement.
  - Page 199

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## Revised Sections

- Remove air dispersion modeling language from minor and Title V air quality permitting programs
  - In 2010, DENR developed an independent construction permit program (ARSD 74:36:20).
  - The construction permit program includes requirements for air dispersion modeling.
  - Therefore, the language referring to air dispersion modeling is no longer necessary in the minor and Title V permitting programs.
    - Chapters 74:36:04:04 and 74:36:05:06
    - Pages 27 and 32

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## Revised Sections

- On June 14, 2016, EPA proposed revisions to the Permit Recission provision in the PSD regulations. The revisions were published in the Federal Register on November 7, 2016.
  - Remove a date restriction;
  - Clarify that a recission is contingent on concurrence of the reviewing authority; and
  - Correct an outdated reference to another part of the PSD regulations.
  - ARSD 74:36:09:02(6)
  - Page 174

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## Corrections

- ARSD 74:36:06:07 – Open burning practices prohibited – references a section in a chapter that was repealed on January 12, 2012.
- Page 41

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## New Source Performance Standards (NSPS)

- The following NSPS have been stayed by EPA. DENR initially proposed adopting these regulations; however, because of EPA's actions, they will not be adopted at this time:
  - Subpart Cf - Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
  - Subpart XXX - Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
  - Subpart OOOOa - Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015

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## Landfill NSPS

- EPA issued a 90-day stay of Subparts Cf and XXX on May 5, 2017.
  - Reconsider the following provisions: 1) Tier 4 surface emission monitoring; 2) annual liquids reporting; 3) corrective action timeline procedures; 4) overlapping applicability with other rules; 5) the definition of cover penetration; and 6) design plan approval.
  - As part of the reconsideration process, EPA plans to issue a notice of proposed rulemaking.
  - Both rules are stayed in their entirety and sources are not required to comply with the requirements while the stay is in effect.

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## Oil and Gas NSPS

- On June 5, 2017, EPA issued a 90-day stay of Subpart OOOOa. EPA proposed a two-year stay on top of the existing 90-day stay on June 13, 2017.
- The stay applies to the fugitive emissions requirements, well site pneumatic pumps requirements, and requirements for certification by a professional engineer of closed vent systems (i.e. centrifugal compressors, reciprocating compressors, pneumatic pumps, and storage vessels).

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## Oil and Gas NSPS

- On July 3, 2017, the US Court of Appeals for the District of Columbia Circuit blocked EPA's stay of the oil and gas rules.
- EPA is currently reviewing the court's decision and weighing its options.

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**Questions ?**

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***South Dakota Board of Minerals & Environment  
Consent Calendar***

						<i>July 20, 2017</i>
<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Release of Surety:</u></b>						
Dick Wilde, Jr. Lake Preston, SD	83-208		\$500	1537004350	Wells Fargo Bank, Watertown	Release \$500.
<b><u>Release of Liability and Surety:</u></b>						
Black Hills Environmental Partner, LLC Dripping Springs, TX	13-949		\$4,000	1022395	Lexon Insurance Company	Release liability and \$4,000.
		<b>949001</b>	W1/2 Section 32; T3N-R9E, Meade County			
<b><u>Transfer of Liability and Release of Surety:</u></b>						
Schleusner Dairy Inc. Watertown, SD	16-1002		\$1,000	234733	Reliabank Dakota, Watertown	Transfer liability and release \$1,000.
		<b>1002001</b>	SW1/4 Section 8 & NE1/4 Section 18; T116N-R51W, Codington County			
Transfer to:						
Kranzburg Township Watertown, SD	17-1016		EXEMPT	NA	NA	

***South Dakota Board of Minerals & Environment  
Consent Calendar***

						<i>July 20, 2017</i>
<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Transfer of Liability:</u></b>						
Mehlhoff Construction Tripp, SD	83-218		\$4,000	57284	The Farmers & Merchants State Bank, Scotland	Transfer liability.
		<b>218020</b>	NW1/4 Section 31; T100N-R57W, Hutchinson County			
Transfer to:						
Hutchinson County Highway Department Olivet, SD	83-133		EXEMPT	NA	NA	
<b><u>Releases of Liability:</u></b>						
Bowes Construction, Inc. Brookings, SD	83-164		\$20,000	HGMW-10-206- 0065	Hudson Insurance Company	Release liability.
		<b>164026</b>	Section 30; T104N-R62W, Davison County			
		<b>164038</b>	NW1/4 Section 20; T108N-R50W, Moody County			
TF Luke & Sons, Inc. Kimball, SD	83-11		\$20,000	92911763	Western Surety Company	Release liability.
		<b>11025</b>	S1/2 Section 30; T104N-R62W, Davison County			

***South Dakota Board of Minerals & Environment  
Consent Calendar***

						<i>July 20, 2017</i>
<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Releases of Liability:</u></b>						
Kory Standy Platte, SD	12-933		\$1,500 \$1,000	607096 607412	First Fidelity Bank, Platte	Release liability.
		<b>933002</b>	S1/2 SE1/4 Section 26; T98N-R69W, Charles Mix County			
Vanderpol Dragline, Inc. Mitchell, SD	83-59		\$25,000	0350 08 069675	Wausau Underwriters Insurance Company	Release liability.
		<b>59018</b>	NW1/4 Section 32; T100N-R64W, Douglas County			
Harvey Wall Freeman, SD	99-687		\$1,000 \$2,000 \$1,033	375011767353 375012040214 375012069064	US Bank, Mitchell	Release liability.
		<b>687002</b>	SE1/4 Section 4; T99N-R57W, Hutchinson County			
City of Huron Huron, SD	83-128		EXEMPT	NA	NA	Release liability.
		<b>128001</b>	NE1/4 SE1/4 Section 24; T112N-R63W, Beadle County			



***South Dakota Board of Minerals & Environment  
Consent Calendar***

						<b><i>July 20, 2017</i></b>	
<b><u>License Holder</u></b>	<b><u>License No.</u></b>	<b><u>Site No.</u></b>	<b><u>Surety Amount</u></b>	<b><u>Surety No.</u></b>	<b><u>Surety Company or Bank</u></b>	<b><u>DENR Recommendation</u></b>	
<b><u>Releases of Liability:</u></b>							
Day County Highway Department Webster, SD	83-34		EXEMPT	NA	NA	Release liability.	
		<b>34006</b>	NE1/4 NW1/4 Section 3; T122N-R53W, Day County				
		<b>34007</b>	E1/2 NE1/4 N1/2 Lot 3; Section 11; T121N-R56W, Day County				
		<b>34008</b>	SE1/4 Section 2; T121N-R56W, Day County				
Grant County Highway Department Milbank, SD	83-183		EXEMPT	NA	NA	Release liability.	
		<b>183002</b>	W1/2 NW1/4 Section 20; T121N-R47W, Grant County				
Lyman County Highway Department Kennebec, SD	83-215		EXEMPT	NA	NA	Release liability.	
		<b>215003</b>	N1/2 Section 4; T109N-R77W, Stanley County				
		<b>215016</b>	N1/2 Section 34; T103N-R77W, Tripp County				

***South Dakota Board of Minerals & Environment  
Consent Calendar***

						<i>July 20, 2017</i>	
<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>	
<b><u>Releases of Liability:</u></b>							
McCook County Highway Department Salem, SD	83-157		EXEMPT	NA	NA	Release liability.	
		<b>157012</b>	N1/2 NE1/4 Section 25; T102N-R55W, McCook County				
		<b>157014</b>	S1/2 SW1/4 Section 17; T104N-R54W, McCook County				
		<b>157016</b>	NW1/4 NW1/4 Section 22; T103N-R55W, McCook County				
Miner County Highway Department Howard, SD	83-177		EXEMPT	NA	NA	Release liability.	
		<b>177030</b>	SE1/4 Section 3; T107N-R56W, Miner County				

# South Dakota Board of Minerals & Environment

July 20, 2017

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Acceptance of Financial Assurance Increase for Wharf Resources (USA), Inc.:</u></b>					
Wharf Resources (USA), Inc. Lead, SD	356, 464, & 476	\$630,800	SU27832	Aspen American Insurance Company	Accept rider to Bond No. SU27832, Aspen American Insurance Company, increasing the bond by \$18,900 to the new amount of \$649,700.

RECEIVED  
JUN 05 2017  
MINERALS & MINING PROGRAM



PERMITTING & RECLAMATION DEPARTMENT  
P.O. Box 2010 • Belle Fourche, South Dakota 57717  
PH. (605) 892-6950 • FAX (605) 892-6979

June 2, 2017

Board of Minerals and Environment  
SD Department of Environment and Natural Resources  
Attn: Eric Holm  
523 Capitol Avenue  
Pierre, SD 57501

**RE: Request for Approval of Socioeconomic Assessment Contractor for the Stateline Mine Permit Application.**

Dear Board of Minerals and Environment:

American Colloid Company (ACC) has submitted the Stateline Mine large scale permit application to the Department of Environment and Natural Resources (DENR) and requests approval of Dr. Michael K. Madden as a qualified consultant for completion of the Socioeconomic Assessment as required by SDCL 45-6B-33.1. The permit application addresses a new bentonite mine area in Butte County, South Dakota that is located on the north side of Highway 212 and adjacent to the Wyoming/South Dakota border northwest of Belle Fourche, South Dakota.

Dr. Madden has pertinent education and experience, and has completed numerous socioeconomic assessments for other projects including large scale mine permit applications in South Dakota. Please see the attached resume/curriculum vitae for his academic qualifications and a listing his research reports and publications.

Please return any correspondence related to this approval request to me by email ([melody.smith@mineralstech.com](mailto:melody.smith@mineralstech.com)) or hard copy at the following address:

American Colloid Company  
Attn: Melody Smith  
P.O. Box 2010  
Belle Fourche, SD 57717

If you have any questions, comments, or concerns please contact me by telephone at 1-605-892-7178 (office) or 307-696-3543 (cell).

Sincerely,

A handwritten signature in blue ink that reads 'Melody Smith'.

Melody Smith  
Environmental Specialist  
American Colloid Company

Attachment

RECEIVED  
JUN 05 2017  
MINERALS & MINING PROGRAM

## RESUME'

PERSONAL DATA: Dr. MICHAEL K. MADDEN

Date of Birth: September 13, 1943.

Residence: 63 Langdon Road, Buffalo, Wyoming 82834

Telephone:307-684-9356

### ACADEMIC QUALIFICATIONS:

B. S. 1965. South Dakota State University, Economics and Mathematics. Ph. D. 1970. Iowa State University, Economics and Statistics.

### RESEARCH REPORTS AND PUBLICATIONS ETC.

Limited Socioeconomic Assessment, Bentonite Mineral Performance, Inc., Dec. 2012

Socioeconomic Assessment, VMC, LLC, The Deadwood Standard Project, February 2012.

Economic Update, of and Eastside Gaming Facility Near Kadoka, SD, April 2011.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2011.

Socioeconomic Assessment, Wharf Mining Company, October, 2010

Limited Socioeconomic Assessment, Proposed Bentonite Mine Permits, Davis North and Davis South, American Colloid Company, March, 2010.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2010.

Assessment of Socioeconomic Impacts Expected with the Keystone XL Pipeline Project, October, 2009

Demographic and Economic Characteristics of Snowmobile Recreation in the Province of Saskatchewan, For the Provincial Government of Saskatchewan, July 2009.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2009.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2008.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2007.

Economic Impact of Native American Educational Institution Graduates, The Case of United Tribes Technical College, Update, July, 2007.

Sector Economic Impacts Associated with Big Stone II Power Plant, June 2006.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2006.

Estimate of the Distribution of Economic benefits by Travel Season, February, 2005.

Economic Feasibility of a Tribal Casino near Kadoka, South Dakota, June 2005.

Estimate of the Distribution of Economic benefits by Travel Season, February, 2005.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2005.

Economic Impact of Native American Educational Institution Graduates, The Case of United Tribes Technical College, May, 2005.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2004.

South Dakota Occupancy and International Travel Survey, 2003, December 2003.

Economic and Market Issues Relevant to a Trust Company Application in Southeastern South Dakota, October 2003.

Economic Issues Associated with a Proposed Branch Bank in the Rapid City Area, September 2003.

Marketing and Promotion Update, Rapid City Convention and Visitors Bureau, May 2003.

Economic and Fiscal Issues Associated with Additional Meeting Facilities in Oacoma, SD, February 2003.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2003

South Dakota Occupancy and Foreign Travel Survey, 2002, December 2002.

Economic Impacts related to Buffalo Gap National Grassland, June 2002

Market and Promotion Update, Rapid City Convention and Visitors Bureau, April 2002.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2002.

South Dakota Occupancy and Foreign Travel Survey, 2001, December 2001.

Market Feasibility for a Choice Hotels International Lodging Property in Rapid City, Sept 2001.

Visitor Industry Potential for the City of Lead and Estimates of Economic Impacts, June 2001

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2001.

South Dakota Occupancy and Foreign Travel Survey, 2000, December 2000.

Taxable Sales in Six Western South Dakota Communities, September 2000.

External Economic Impacts Traced to the Deadwood Hospitality Industry, February 2000.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 2000.

South Dakota Occupancy and Foreign Travel Survey, 1999, December 1999.

Economic Feasibility and Market Analysis of Expanded Visitor Amenities in the City of Huron, August 1999.

Economic and Fiscal Incentives and Disincentives Associated with Urban Sprawl, April 1999.

Economic and Fiscal Impacts of the North Dakota Travel Industry, April 1999.

Economic, Fiscal and Funding Issues Associated with the Rapid City Hospitality Industry, March 1999.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 1999.

Economic Impact of The Hospitality Industry in Pierre, SD, November, 1998

Earnings and Employment Survey, Deadwood Gaming Association, October 1998

- Market Analysis of a Financial Institution for the Hermosa Area, June 1998
- Economic and Fiscal Impacts of the North Dakota Travel Industry, June 1998
- Economic Redevelopment Issues Associated with Lawrence County, April 1998
- Market Characteristics of Terry Peak Real Estate, March 1998.
- An Analysis of Flows of Public School Revenue and Expenses Related To Wharf Resources And its Employee Households, February, 1998.
- Property Taxes for County Purposes, The Case In Lawrence County, February, 1998
- Fiscal Impact to the State of Repealing the Contractor's Excise Tax, January 1998
- Economic Issues Associated with Conversion of Bison to Federal Mandatory Meat Regulations, January 1998.
- Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, December 1997.
- Socioeconomic Analysis of a Rural Water System in West-Central South Dakota, Socioeconomic Portion of Environmental Assessment, June 1997.
- Business Volume Projections, Involving a Historical Park Near Spearfish, SD, April, 1997.
- The Economic Significance of the Travel Industry in North Dakota, March 1997.
- Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, December 1996.
- Issues Concerning the Medically Indigent in South Dakota Counties, September 1996.
- A Study of Alternative uses of a Lodging Property, July 1996.
- Limited Socioeconomic Analysis, Wharf Resources, June 1996.
- A Preliminary Market Analysis of Thunderhead Episcopal Camp, May 1996.
- A Study of the Multifamily Housing Market, Rapid City, SD, March, 1996.
- Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 1996.
- Economic Impacts Associated with the University of South Dakota School of Medicine, November 1995.



Economic Impact of the Mining Industry in South Dakota, June 1995.

Economic Significance of the Retail Sector in Sioux Falls, SD, May 1995.

Limited Socioeconomic Assessment of a Proposed Mine Expansion of Brohm Mining Company, April 1995.

Community Survey: Watertown, South Dakota, (Jointly with Personal Group, Inc.), March 1995.

Community Survey: Hughes and Stanley Counties, (Jointly with Personal Group, Inc.), February, 1995.

1994 South Dakota Non-Point Source Pollution Survey Report, (Statistical Analysis Section), January 1995.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, December 1995.

Time and Motion Study, Supervisors Pennington County Jail, December 1994.

A Study of the Economic Consequences and Visions for Future Economic Development in the Rapid City Area, Rapid City Economic Development Partnership, November 1994.

Wages and Benefits in the Rapid City Region, A Comparative Analysis, September 1994.

Economic Impact of the Health Industry in Sioux Falls, South Dakota, September 1994.

Fiscal Issues Associated with the 1994 Property Tax Limit Initiative, July, 1994.

Volume Projections, Solid Waste Facility, Rapid City, SD , June 1994.

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, January 1994.

Socioeconomic Issues Relevant to Development of Launch Control Complex Visitor Center, For US Park Service, December 1993.

A Baseline Socioeconomic Analysis of Keystone, South Dakota, December 1993.

South Dakota Lodging, Occupancy Survey Annual Report, November, 1993.

Survey of Technical Training Needs in Central South Dakota, September 1993.

Economic Significance of the Travel Industry in Twelve South Dakota Towns and Cities, October 1993.

Population Perspectives, City of Spearfish, June, 1993.

A Value Added Analysis of John Morrell & Company, Sioux Falls, SD, June, 1993.

The Gold Market Infrastructure and its Relation to Homestake Mining Company, May 1993

Statistical Update, Economic and Fiscal Impacts Associated with the Travel Industry in South Dakota, December 1992.

Market Survey, St. Mary's Hospital, Pierre, SD, December 1992.

Economic and Fiscal Impacts of Gaming in Deadwood South Dakota, 1992 Update, November, 1992.

Long Term Projections of the Black Hills Economy and Forecasts of Energy Demands, October 1992.

Socioeconomic Impacts of a Natural Gas Pipeline into the City of Pierre, SD. September, 1992.

Socioeconomic Impacts of an Ash Monofill near Edgemont, SD, (With Others) September, 1992.

Socioeconomic Impact analysis of Wharf Resources Inc. Update, September, 1992.

Market Analysis of a Proposed Lodging Facility in Spearfish Canyon, March 1992.

Survey Analysis of Voter Perceptions; Rapid City School Bond Issue, January 1992.

Statistical Update, Economic and Fiscal Impacts Associated with the Vacation Travel Industry in South Dakota, September 1990 Through August 1991, December 1991

Gaming in South Dakota: A Study of Gambling Participation and Problem Gambling and A Statistical Description and Analysis of its Socioeconomic Impacts, November 1991.

Market Feasibility of a Lodging Facility Project in Watertown, South Dakota, June 1991.

Economic Values Associated with the Sport of Golf, Rapid City, SD, May 1991.

Economic and Fiscal Impacts Associated with the First Year of Gaming, Deadwood, SD, March, 1991.

Market Analysis of a Proposed Lodging Facility, Spearfish, SD, January, 1991

Economic Impacts Associated With South Dakota Parks and Recreation Areas, December 1990.

Statistical Update, Economic and Fiscal Impacts Associated with the Vacation Travel Industry in South Dakota, December 1990.

Analysis of Use Patterns and Economic Impacts of the Black Hills Rail to Trail Project, November 1990.

Economic Impacts Associated with Wharf Resources, Inc., August, 1990.  
South Dakota Lodging, Occupancy Survey Design, May, 1990.

Market Issues, The Lodging Industry Deadwood, SD Area, February 1990.

Economics of Supply Factors Associated with the City of Rapid City Water Enterprise, January 1990.

Statistical Update, Economic and Fiscal Impacts Associated with the Vacation Travel Industry in South Dakota, September 1988 to July 1989, December 1989.

Socioeconomic Impact Analysis, Open Cut Project, Homestake Mining Company, November 1989.

Occupancy Survey Design, South Dakota Department of Tourism, June 1989.

Demographic and Economic Characteristics of Snowmobile Recreation in the Black Hills of South Dakota, 1989 Update, March 1989.

Economic and Engineering Feasibility of Wood Pellet Manufacturing in The Black Hills of South Dakota, (A Future Fund Grant), with others, February 1989

Economic and Fiscal Impacts Associated with the Vacation Travel Industry in South Dakota, January 1989.

Sand and Gravel on the Pine Ridge Indian Reservation: A Market Analysis, October 1988.

Economic Impacts Associated with the South Dakota School of Mines and Technology, August 1988.

Survey Description of Buyer Perceptions of Real Estate Marketing, August 1988.

Economic and Fiscal Impacts Associated With Limited Gaming in Deadwood, South Dakota, May 1988.

Demographic and Economic Characteristics of Snowmobile Recreation in the Black Hills, April 1988.

Survey Description of Seller Perceptions of Real Estate Marketing, April 1988

A Statistical Description of the Impact of Dakota Proposition II, March 1988. (With Cynthia Stubblefield)

Limited Socioeconomic Impact Analysis: Brohm Mining Corporation, January 1988.

Relative Retail Strength of Retail Sectors in South Dakota Small Towns, South Dakota, Retail Prophet, December 1987. (With Cynthia Stubblefield).

Limited Socioeconomic Impact Analysis: Homestake Mining Company -Open Cut Project, November 1987.

The Economics of Long Run Average Costs in South Dakota Public Schools. South Dakota Business Review, September 1987. (With Cynthia Stubblefield).

Economic Survey of Central Standard Time in Western South Dakota, July 1987. (With Jane Dockery).

Efficiency Analysis of Service Channels, Pennington County Government, South Dakota, April 1987.

Economic Feasibility of Establishing a Motorcycle Hall of Fame in Sturgis South Dakota, March 1987.

Author: "Rapid Changes", Column Appearing in Investment Report, 1983 - 1986.

Economic Impacts Associated with the Vacation Travel Industry in South Dakota, South Dakota Business Review, June 1986.

Alcohol Related Costs in Pennington County and a Fiscal Analysis of Means of Financing, May 1986.

Economic Factors Associated with Highway 85 Reconstruction Alternatives North of Deadwood and Lead, South Dakota, March 1986.

Economic and Fiscal Impacts Associated With the Vacation Travel Industry in South Dakota, January 1986.

Economic Issues Associated With A Proposed Mine Expansion, Wharf Resources (U.S.A.) Homeowners Inc. Terry Peak, South Dakota, 1985.

Economic Feasibility and Market Analysis of a Mobile Home Park Northwest of Rapid City, South Dakota, 1985.

Economic and Fiscal Impacts of the Rapid City Area Hospitality Industry, August 1984.  
A Marketing Analysis of a Proposed Subdivision in South-west Rapid City, May 1984.

Economic Impact of a Low Level Radioactive Disposal Site at Igloo, South Dakota, January 1984.

Local Economic Indicators, Chamber of Commerce Bulletin, April 1981.

Economic Development Revenue Bonds in South Dakota, South Dakota Business Review, May 1977. Reprinted in South Dakota Municipalities, August 1977.

Basic Industries and Regional Development, paper presented to the Black Hills Regional Chamber of Commerce Retreat. February 1975.

Major Advisor of Approximately 140 Master's student research papers and theses in the areas of Business Analysis and Economics.

Impact of the User Fee on Visitations and Concession Revenue in Custer State Park, South Dakota Social Science Journal, Fall 1973.

#### PROFESSIONAL EDUCATIONAL EXPERIENCE:

Instructor of Economics, Iowa State University, 1967-1968.

Assistant Professor of Economics, University of Wyoming. 1968-72

Associate Professor of Economics, South Dakota State University. 1972-75.

Associate Professor of Economics and Statistics, University of South Dakota, 1975-77.

Professor of Economics, University of South Dakota, 1977 - 1998.

Dean of Graduate Studies, National American University, 1999 - 2003

#### COMMUNITY SERVICE:

Secretary-Treasurer, Rapid City Civic Center Corporation, 1974 - 84.

Policy Board, Black Hills Council of Local Governments, 1975 - 82.

Alderman, Rapid City Common Council, 1974 - 82.

Trustee, South Dakota State Board of Retirement and Insurance, 1976 - 1982.

Director, West Dakota Water Development District, 1984 - 1990.

Member and Director, Whispering Pines Volunteer Fire Department, 1984 - 1989.

Member and Second Vice Chairman, Black Hills Area Red Cross, 1987 -1990.

Member, South Dakota Governor's Council of Economic Advisors, 1991 to 2003.

Member, Board of Directors, Enchanted Hills Water Assn., 1985-90, 1992 to 2004.

Member, Buffalo Chamber of Commerce, 2003-present

President, Mountain Ridge Development and Improvement Association 2006 - Present

Member, Johnson County Tourism Board, 2005 - Present

Legislator, Wyoming State House of Representatives, District 40, 2006 - Present

JUN 26 2017

Division of Financial  
& Technical AssistanceSTATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

## BOARD OF MINERALS AND ENVIRONMENT

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IN THE MATTER OF	)	DECISION ON MOTION TO
QUARTZ OPERATIONS, LLC	)	DISMISS OR IN THE ALTERNATIVE
SURETY BOND PARTIAL	)	MOTION FOR JUDGMENT AS A
DISBURSEMENT PETITION OF	)	MATTER OF LAW BY THE
WOODFORD CONSTRUCTION CO.	)	DEPARTMENT OF WATER AND
		NATURAL RESOURCES

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A Motion having been filed by the Department of Water and Natural Resources, through its counsel, Steven Blair, South Dakota Attorney General's Office, to dismiss the Petition for Contested Case Hearing or in the Alternative Motion for Judgment as a Matter of Law, and a response having been filed by Woodford Construction by and through counsel of record, Tom Patterson, and the hearing examiner having reviewed the briefs and heard argument of counsel on May 23, 2017 by telephonic hearing, makes his decision as set forth herein. Both parties waived any objection to having the hearing telephonically, and after stipulating to the date, to formal notice of hearing.

Both parties have urged the hearing examiner to take judicial notice of prior Findings of Fact, Conclusions of Law, sworn testimony and Orders previously filed regarding Quartz Operations, LLC. The examiner finds all of those documents to be credible and relevant and are hereby incorporated as part of the record in this matter. On May 21, 2015, the hearing examiner previously entered its Findings of Fact and Conclusions of Law and Order concerning the Motion to Intervene by Woodford and creditor Davis. This

examiner found at that time that based on SDCL 34-A-10-2.2 and 2.3, Woodford and Davis had no right, title or interest to make a claim against a plugging and performance bond of Quartz Operations, LLC. Further, at that juncture the determination of the reclamation and appropriate plugging of the Northern Points 1 well had not been fully heard by the Board and that the bond had not been released by the Board pursuant to those statutes. At that time this hearing examiner dismissed the claim of Woodford and Davis without prejudice subject to further action by the Board and whether the bonds (certificates of deposit) would potentially be released back to Quartz Operations, LLC.

Since that ruling, the Board heard and ruled on the Petition to Revoke the Drilling Permit and Petition for Forfeiture of Surety in a contested case hearing on November 17, 2016. The hearing specifically addressed the status of the bond and the compliance with the drilling permit as it related to surface remediation and appropriate plugging performance of the Northern Points 1 well. Evidence was taken concerning the forfeiture of the bond and the violation of Quartz Operations, LLC of the plugging plan. The Findings of Fact and Conclusions of Law regarding the forfeiture hearing are set forth in the Order of Robert Morris, Hearing Chairman, dated March 16, 2017.

The issue now before the hearing examiner is whether Woodford Construction, LLC, having filed its Petition for Contested Case Hearing, would be entitled to a portion of the certificates of deposit as the bonding mechanism based on the rulings of the Board subsequent to May 21, 2015. More



specifically, was the forfeiture of the certificates of deposit a release of the certificates so as to make them available to be executed upon by Woodford. For the purposes of this Motion, the previous Findings of Fact of the hearing examiner dated March 16, 2017, are adopted and do not need to be repeated here. This examiner finds particularly important the fact that Quartz Operations, LLC did not properly plug the well and that the concern of the State is the upward flow of the lower quality water in the Minnelusa Aquifer into the Inyan Kara Aquifer. Finding of Fact No. 28 finds that the failure to properly plug the well “still presents a danger of communication between the Minnelusa and Inyan Kara.” This failure to properly plug the Northern Points well is a violation of the Board approved permit and a violation of ARSD Section 74:12:03:02(4) (a) (i). As a result, the May 16<sup>th</sup> Order resulted in the forfeiture of certificates of deposit to the South Dakota Department of Environment and Natural Resources.

SDCL 34A-10-2.2 and 2.3 are relevant and applicable. Also particularly relevant to the motion are SDCL 45-9-11 and 45-9-14(3). SDCL 45-9-11 gives the Department the authority to promulgate rules concerning the plugging of wells. Under SDCL 45-9-14(3) one of the concerns contemplated by the legislature is to prevent the pollution of fresh water supplies. The testimony at the hearing and on the record indicate that the State, through the Department of Environment and Natural Resources, continues to have an ongoing concern regarding the migration between the Inyan Kara and the Minnelusa Aquifers. The Department required plugging between those aquifers. Petitioner argues

however, that surface reclamation is complete and thus at least part of the security should be released. The parties agree and the Board found that surface reclamation is complete. FOF 29.

Petitioner Woodford advocates that by the forfeiture proceeding the Board has “released” the bond as contemplated by 34A-10-2.2 and 2.3. This issue of “release” or “forfeiture” lies at the heart of whether there is a scenario whereby the Board can provide Petitioner relief through the hearing process or whether the Department’s motion should be granted. Both parties seem to agree that there is limited authority on the forfeiture issue. Black’s Law Dictionary, 5<sup>th</sup> Edition provides a base definition of Forfeiture and Release.

“Forfeiture of Bond. A failure to perform the condition upon which obligor was to be excused from the penalty in the bond.”

“Release. The relinquishment, concession, or giving up of a right, claim or privilege, by the person in whom it exists or to whom it occurs to the person against whom it might have been demanded or enforced.”

The basic inference is one of voluntary relinquishment versus penalty for failure to perform. The hearing examiner finds that the forfeiture or relinquishment of claim to the security by Quartz is not a release of the certificates of deposits by the State. SDCL 34A-10-2.2 deems that at time of submission “all right and title in any bond or other security...shall be in the State until the board by order releases the security. The bond or security does not constitute an asset of the person required to provide it, ... .” It then is up to the Board to certify if remediation “is complete.” Further, the board may “set aside funds to achieve complete remediation.” SDCL 34A-10-2.3. Petitioner

argues that remediation is complete and requests the board to release all or part of the security required.

The hearing examiner is not convinced that Petitioner has standing to force or compel the Board to fully or partially release the security. Quartz forfeited any right of claim when it failed to comply with the plugging permit and acquiesced in the forfeiture of its bond by not objecting.

SDCL 34A-10-2.4 allows the Board to set forth conditions up which bond may be released. While the State Water Board has adopted rules, as of this date the BME has not (see 74:07:01:10). However, to the extent the Water board's rules are instructive, they confirm the necessity that all matters have been "completed in accordance with the approved permit" and "the potential to cause impact has been removed". Clearly that has not been done given the demonstrated possibility and concern for danger of communication between aquifers.

Further, SDCL 34A-10-2.1 contemplates that the financial assurance is to guarantee "the performance of corrective actions to contain, mitigate, and remediate all pollution, contamination, or degradation which may be caused by the activity." It is undisputed that corrective action regarding the proper plugging has not been accomplished. Given this fact, reading of the statutes in their entirety compels the conclusion that the bond should not be released.

Based on the above, the hearing examiner finds that the forfeiture of the certificates of deposit simply extinguished any right Quartz has to the CDs, but was not a release by the Board.

Having decided that the forfeiture was not a “release” by the Board and that the Board has yet to certify the remediation of an environmental concern, what relief if any can the Board provide to Woodford at a hearing? No specific amounts were assigned to address the surface reclamation apart from the plugging requirements to justify a fixed division. In light of the cost estimate of directional drilling to properly plug the well the security is inadequate. FOF 23. Further, without an approved plugging plan, or certification by the Board of completion, the forfeited proceeds cannot be released. SDCL 45-9-14(3) read in conjunction with 34A-1-02.2 and 2.3 do not provide the Board a comfort level to simply find that the breach between the Minnelusa and Inyan Kara aquifers caused by drilling is not an environmental concern of the State until properly plugged. Without a specific remedy or plan, the Board cannot be forced to release funds set aside for that purpose. This hearing examiner is also unaware of any statutory or other rule that provides a limitation period by which the State must remediate an environmental concern i.e., the migration of lower quality water from the Minnelusa to the Inyan Kara aquifer. See FOF 24, 25, and 26. Further, based on the testimony before the Board, an environmental concern continues to exist so long as the bore hole is not plugged between the two aquifers. FOF 28. The testimony further provided that to contain the problem it would take a considerable amount of money above the forfeited amounts of the certificates of deposit. SDCL 34A-10-2.3 specifically addresses the completion of the remediation. Until that is accomplished, it is this examiner’s opinion that the only use of the funds under

the statute is for “the purpose of enabling the State to effectuate the environmental clean-up remediation”. So long as the migration issue exists, any remediation or plugging concern continues to exist. Therefore, Woodford’s Petition is not ripe for consideration and consequently must be dismissed.

As the above relates to the bonding mechanisms, the Board has not ordered the release of the security to Quartz Operations, LLC, and in fact, found that the bond was forfeited based on the violation of the plugging requirements.

Based on the reasons set forth herein, the hearing examiner hereby grants the Motion of the Department to dismiss this action. The ruling is particularly based on the fact that the Board of Minerals and Environment cannot provide any requested remedy or relief to Woodford Construction through any order it may make with or without a hearing. Therefore, it dismisses this matter based on failure to state a claim for which relief may be granted. The board has ordered forfeiture of the certificates of deposits, and by its previous orders chosen not to release any amount to Quartz Operations, LLC due to continued failure to perform proper plugging and address the environmental concern that continues to exist. There is simply no relief or remedy that the Board could afford to Woodford Construction as a creditor of Quartz Operations, LLC.

Mr. Blair, please submit the appropriate proposed Findings of Fact,  
Conclusions of Law and proposed Order consistent with the above.

Dated this 23<sup>rd</sup> day of June, 2017.

SOUTH DAKOTA BOARD OF  
MINERALS AND ENVIRONMENT

  
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Rexford A. Hagg  
Hearing Chairman