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ARTICLE 74:36

AIR POLLUTION CONTROL PROGRAM

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**ARTICLE 74:36**

**AIR POLLUTION CONTROL PROGRAM**

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**DEFINITIONS**

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

(1)  "Act" means chapter 34A-1 of the South Dakota Codified Laws;

(2)  "Acid rain permit" means a legally binding written document or portion of a document that is issued by the department and specifies the acid rain program requirements applicable to an affected source and to the owners and operators and the designated representative of the affected source;

(3)  "Acid rain program" means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with Title IV of the Clean Air Act;

(4)  "Administrator" means the administrator of the Environmental Protection Agency or the secretary or their authorized representatives;

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

(6)  "Affected unit" means a unit that is subject to any of the emission reduction requirements or emission limits pursuant to Title IV of the Clean Air Act or chapter 74:36:16;

(7)  "Air pollutant" means one or a combination of the regulated air pollutants listed in § 74:36:01:15;

(8)  "Allowable emissions" means the emission rate calculated using the maximum rated capacity of a source unless the source is subject to federally enforceable limits which restrict operating rate, hours of operation, or both, and the most stringent of:

(a)  The applicable new source performance standards in chapter 74:36:07;

(b)  The applicable national emission standards in chapter 74:36:08;

(c)  Any applicable emission limitations specified in this article, including those with a future compliance date;

(d)  The emission rate specified as a permit condition; or

(e)  The applicable standards in 40 C.F.R. Part 60, 61, or 63 (July 1, 2018);

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

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

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

(12)  "Btu" means British thermal unit;

(13)  "CO" means carbon monoxide;

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

(15)  "Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401 et seq., as amended through January 1, 2010;

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

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

(18)  "Criteria pollutant" means selected and specified pollutants for which limiting ambient air quality standards have been set, including sulfur dioxides, particulate matter, carbon monoxide, ozone, nitrogen oxides, and lead;

(19)  "Department" means the South Dakota Department of Agriculture and Natural Resources;

(20)  "Designated representative" means the responsible person or official authorized by the owner or operator of an affected unit, in accordance with the Clean Air Act, to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to the unit and the submission of and compliance with permits, permit applications, and compliance plans for the unit;

(21)  "Draft permit" means the version of a permit for which the department offers public participation or affected state review;

(22)  "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit, including work practice standards, or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject;

(23)  "Emission standard" means the maximum amount of a pollutant legally permitted to be discharged from a single unit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(40)  "NSR" means new source review;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(66)  "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an applicable reference or equivalent method;

(67)  "SO2" means sulfur dioxide;

(68)  "NO2" means nitrogen dioxide;

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

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

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

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

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

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

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

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

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

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

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

(1)  Corrects typographical errors;

(2)  Changes the name, address, or phone number of any person identified in the permit or provides a similar minor administrative change at the source;

(3)  Requires more frequent monitoring or reporting by the permittee;

(4)  Allows for a change in ownership or operational control of a source if the department determines that no other change in the permit is necessary and a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the department. If the change in ownership or operational control changes the designated representative for an acid rain permit, the change is considered a permit modification and the procedures outlined in § 74:36:05:39 apply; or

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

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

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

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

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

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

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

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

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

(1)  Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Clean Air Act that implements the relevant requirements of the Clean Air Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52 (July 1, 2018);

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

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

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

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

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

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

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

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

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

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)  Coal cleaning plants with thermal dryers;

(2)  Kraft pulp mills;

(3)  Portland cement plants;

(4)  Primary zinc smelters;

(5)  Iron and steel mills;

(6)  Primary aluminum ore reduction plants;

(7)  Primary copper smelters;

(8)  Municipal incinerators capable of charging more than 250 tons of refuse per day;

(9)  Hydrofluoric, sulfuric, or nitric acid plants;

(10)  Petroleum refineries;

(11)  Lime plants;

(12)  Phosphate rock processing plants;

(13)  Coke oven batteries;

(14)  Sulfur recovery plants;

(15)  Carbon black plants (furnace process);

(16)  Primary lead smelters;

(17)  Fuel conversion plants;

(18)  Sintering plants;

(19)  Secondary metal production plants;

(20)  Chemical process plants;

(21)  Fossil fuel-fired boilers totaling more than 250 million British thermal units per hour heat input;

(22)  Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23)  Taconite ore processing plants;

(24)  Glass fiber processing plants;

(25)  Charcoal production plants;

(26)  Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and

(27)  Any other source category, which as of August 7, 1980, is regulated under § 111 or 112 of the Clean Air Act but only for those air pollutants that have been regulated for that category.

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

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

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

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

(1)  An increase in the amount of an air pollutant emitted by that source or in the emission of an air pollutant not previously emitted, except for an insignificant increase in allowable emissions as specified in § 74:36:01:10.01;

(2)  A significant change to existing monitoring, reporting, or record keeping requirements in the permit;

(3)  The change requires or changes a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis; or

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

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

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

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

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

(1)  10 tons per year of particulate matter;

(2)  5 tons per year of PM10;

(3)  3 tons per year of PM2.5;

(4)  10 tons per year of sulfur dioxide;

(5)  10 tons per year of nitrogen oxides;

(6)  10 tons per year of carbon monoxide;

(7)  5 tons per year of volatile organic compounds;

(8)  0.1 tons per year of lead;

(9)  1 ton per year of fluorides;

(10)  2 tons per year of sulfuric acid mist;

(11)  2 tons per year of hydrogen sulfide;

(12)  2 tons per year of total reduced sulfur;

(13)  2 tons per year reduced sulfur compounds;

(14)  2 tons per year of municipal waste combustor emissions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)  Nitrogen oxides or any volatile organic compounds;

(2)  Nitrogen dioxide, PM10, sulfur dioxide, carbon monoxide, lead, ozone, or any pollutant for which a national ambient air quality standard has been promulgated in the Clean Air Act;

(3)  Any pollutant that is addressed by any standard promulgated under § 111 of the Clean Air Act;

(4)  Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act;

(5)  Any pollutant subject to a standard promulgated under § 112 of the Clean Air Act or other requirements established under §§ 112(g), (j), and (r) of the Clean Air Act, including the following:

(a)  Any pollutant subject to a standard promulgated under § 112(j) of the Clean Air Act. If the administrator of the EPA fails to promulgate a standard by the date established in § 112(e) of the Clean Air Act, any pollutant for which a subject source would be major shall be considered to be regulated on that date; and

(b)  Any pollutant for which the requirements of § 112(g)(2) of the Clean Air Act have been met, but only for the individual source subject to § 112(g)(2) requirement; or

(6)  Any of the six greenhouse gases designated by EPA as regulated air pollutants: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

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

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

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

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

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

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

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

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

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

(4)  For affected sources:

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

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

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

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

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

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

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

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

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

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

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

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

**Source:** 23 SDR 106, effective December 29, 1996; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:01:20.  Physical change in or change in the method of operation defined.** A physical change or change in the method of operation does not include:

(1)  Routine maintenance, repair, and replacement;

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

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

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

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

(6)  Any change of ownership at a source;

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

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

**Source:** 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

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

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

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

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

**CHAPTER 74:36:02**

**AMBIENT AIR QUALITY**

Section

74:36:02:01 Air quality goals.

74:36:02:02 Ambient air quality standards.

74:36:02:03 Methods of sampling and analysis.

74:36:02:04 Air quality monitoring network.

74:36:02:05 Ambient air monitoring requirements.

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

(1)  Protection of the public health;

(2)  Prevention of damage to buildings, property, animals, plants, forests, and agricultural crops;

(3)  Optimization of visibility; and

(4)  Minimization of the corrosion of or damage to metals or other materials.

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

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

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

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

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:02, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:02:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:11, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:09, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:02:09, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**CHAPTER 74:36:03**

**AIR QUALITY EPISODES**

Section

74:36:03:01 Air pollution emergency episode.

74:36:03:02 Episode emergency contingency plan.

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

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:02:22, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:02:17, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:02:17, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 o a minor source operating permit.

74:36:04:05 Time period for operating permits and renewals.

74:36:04:06 Timely and complete application for operating permit required.

74:36:04:07 Required contents of complete application for operating permit.

74:36:04:08 Applicant required to supplement or correct application.

74:36:04:09 Permit application -- Completeness review.

74:36:04:10 Time period for department's recommendation.

74:36:04:11 Repealed.

74:36:04:12 Public participation in permitting process.

74:36:04:12.01 Public review of department's draft permit.

74:36:04:13 Final permit decision -- Notice to interested persons.

74:36:04:14 Right to petition for contested case hearing.

74:36:04:15 Contents of operating permit.

74:36:04:16 Operating permit expiration.

74:36:04:17 Renewal of operating permit.

74:36:04:18 Operating permit revision.

74:36:04:19 Administrative permit amendment.

74:36:04:20 Procedures for administrative permit amendments.

74:36:04:20.01 Minor permit amendment required.

74:36:04:20.02 Requirements for minor permit amendment.

74:36:04:20.03 Application for minor permit amendment.

74:36:04:20.04 Department deadline to approve minor permit amendment.

74:36:04:21 Permit modifications.

74:36:04:21.01 Alternative permit modification procedure.

74:36:04:22 Source status change -- New permit required.

74:36:04:23 Reopening operating permit for cause.

74:36:04:24 Procedures to reopen operating permit.

74:36:04:25 Repealed.

74:36:04:26 Repealed

74:36:04:27 Operating permit termination, revision, and revocation.

74:36:04:28 Notice of operating noncompliance -- Contents.

74:36:04:29 Petition for contested case on alleged violation.

74:36:04:30 Repealed.

74:36:04:31 Circumvention of emissions not allowed.

74:36:04:32 General permits.

74:36:04:33 Secretary may require an individual permit.

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

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

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

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

**74:36:04:02.  Minor source operating permit required.** A person may not operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment that prevents or controls the emission of air pollutants into the ambient air until a construction permit or minor source operating permit has been issued by the board or the secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:16, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:25, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:25, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 42 SDR 52, effective October 13, 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A minor source applying for an initial operating permit shall submit a complete application to the department within 12 months after commencing operation. A minor source applying for a permit modification shall submit a complete application to the department within 12 months after commencing operation of the emission unit(s) involved with the modification.

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

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

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

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

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

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

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

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

(3)  The following information on emissions:

(a)  Identification and description of all emission units;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**74:36:04:12.01.  Public review of department's draft permit.** During the public comment period, any interested person may submit written comments on the draft permit or request a contested case hearing. All comments will be considered in making a final permit decision on the draft permit as provided in § 74:36:04:13. A request for a contested case hearing must be in writing and prepared and filed in accordance with article 74:09. The department is not required to accept recommendations or comments that are not based on applicable requirements of this article or the requirements of the Clean Air Act.

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

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

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

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

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

(1)  A later effective date is specified in the final permit decision;

(2)  A contested case hearing is requested; or

(3)  No comments or request for changes in the draft permit were received during the public notice period on the draft permit. In this case, the draft permit automatically becomes the final permit decision and the final permit is issued at the end of the public notice period.

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

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

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

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

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

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

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

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

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

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

(1)  The signature of either the secretary or the chairman;

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

(3)  The type of operation;

(4)  The facility and mailing address;

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

(6)  A number for administrative reference;

(7)  The name of a designated person or officer responsible for the source's operation;

(8)  A statement granting an operating permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the act and the Clean Air Act;

(9)  Emission limits and standards, including operational requirements and limits for all regulated emission units, necessary to assure compliance with applicable requirements of the act and the Clean Air Act;

(10)  Monitoring and related record keeping and reporting requirements;

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

(12)  Provisions stating the following:

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

(b)  The operating permit may be revised, revoked and reissued, reopened, or terminated for cause;

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

(d)  The permittee shall provide any information, including records, requested in writing by the department to determine whether cause exists for revising, revoking and reissuing, reopening, or terminating the permit or to determine compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)  It does not violate any applicable requirement;

(2)  It does not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;

(3)  It does not require or change a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(4)  It does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement that the source has assumed to avoid an applicable requirement, a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I, or an alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Clean Air Act; and

(5)  It does not constitute a modification under Title I of the Clean Air Act.

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

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

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

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

(1)  A description of the proposed change, the resulting change in emissions, and any new applicable requirements;

(2)  The source's suggested draft permit; and

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

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

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

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

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

(1)  Issue the minor permit amendment as proposed;

(2)  Deny the minor permit amendment application; or

(3)  Determine that the requested minor permit amendment should be processed as a permit modification.

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

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

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

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

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

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

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

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

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

(1)  Issue the permit revision as proposed;

(2)  Deny the application for a permit revision; or

(3)  Determine the requested permit revision should be processed as a permit modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**74:36:04:28.  Notice of operating noncompliance -- Contents.** If the department determines that the operation of a source is not in compliance with this article, the Clean Air Act, or permit conditions, the department may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based. The secretary, with the concurrence of the alleged violator, may settle an issue of noncompliance by entering into a compliance agreement with the source that specifies the date for final compliance of the source and any penalties under SDCL 34A-1-39. If a compliance agreement can not be negotiated, the department may petition the chairman of the board for a contested case hearing or may file a civil penalty or injunctive action in circuit court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)  Involve the same or substantially similar types of operations;

(2)  Require the same or similar type of air emission limits; and

(3)  Require the same or similar record keeping and monitoring.

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

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

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

**Law Implemented:** SDCL 34A-1-56.

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

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

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

(2)  The owner or operator is not in compliance with the conditions of the general permit.

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

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

**Law Implemented:** SDCL 34A-1-56.

**CHAPTER 74:36:05**

**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.

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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.

**74:36:05:01.  Applicability.** The requirements of this chapter apply to all Part 70 sources.

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

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

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

**74:36:05:02.  Part 70 operating permit required.** A person may not operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment which prevents or controls the emission of air pollutants into the ambient air until a construction permit, PSD preconstruction permit, NSR preconstruction permit, or Part 70 operating permit has been issued by the board or the secretary.

**Source:** 19 SDR 157, effective April 22, 1993; second paragraph transferred from § 74:36:05:05, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

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

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

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

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

(1)  Any major source;

(2)  Any source, including an area source, subject to a standard or regulation promulgated under § 111 of the Clean Air Act unless otherwise specified in chapter 74:36:07;

(3)  Any source, including an area source, subject to a standard or regulation promulgated under § 112 of the Clean Air Act, except for a source that is solely subject to the regulations or requirements of § 112(r) or unless otherwise specified in chapter 74:36:08;

(4)  Any affected source subject to Title IV of the Clean Air Act; and

(5)  Any source in a source category designated by the administrator of the EPA through the Clean Air Act pursuant to Title V of the Clean Air Act.

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

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

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

**74:36:05:03.01.  PSD or NSR preconstruction permit required.** Repealed.

**Source:** 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:10, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; repealed, 36 SDR 207, effective June 28, 2010.

**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, 2018) 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; and

(3)  Sources that operate a unit subject to 40 C.F.R. § 61.145, Standard for Demolition and Renovation (July 1, 2018) 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, 2018). Exempted sources shall meet the applicable requirements in 40 C.F.R. § 61.145 (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:05:04.01.  Insignificant activities.** The following emission units are considered insignificant activities and are exempt from inclusion in a Part 70 operating permit unless the source has requested federally-enforceable permit conditions related to the insignificant activity to avoid needing a PSD preconstruction permit or NSR preconstruction permit or the emission unit is applicable to a standard in chapter 74:36:07 of 74:36:08:

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

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

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

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

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

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

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

(8)  A unit that has the potential to emit two tons or less per year of any hazardous air pollutant. However, the hazardous air pollutant emissions from the unit must be included in determining whether the source is a major source.

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

**Source:** 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 42 SDR 52, effective October 13, 2015.

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

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

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

**74:36:05:06.  Standard for issuance of a Part 70 operating permit.** A Part 70 operating permit 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; 44 SDR 43, effective September 13, 2017.

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

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

**74:36:05:06.01.  Fees required for operating permit.** The applicant for a Part 70 operating permit and the owner or operator of a source with a Part 70 operating permit shall submit a fee in accordance with article 74:37.

**Source:** 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:11, 20 SDR 125, effective February 9, 1994; 36 SDR 207, effective June 28, 2010.

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

**Law Implemented:** SDCL 34A-1-58.

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

**Source:** 2 SDR 40, effective December 7, 1975; transferred from § 34:10:01:21.04; transferred from § 44:10:01:32, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:32, 19 SDR 157, effective April 22, 1993; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

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

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

**74:36:05:08.  Timely and complete application for operating permit required.** A person who owns or operates a Part 70 source required to have an operating permit must submit a timely and complete application. An application is timely if it meets the time limits specified in this section. An application is complete if it meets the requirements in §§ 74:36:05:12 and 74:36:05:13. The time limits are set as follows:

(1)  A source applying for its initial Part 70 operating permit must submit a complete application to the department within 12 months after commencing operation;

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

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

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

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010.

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

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

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

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

If the application is incomplete or additional information is necessary to evaluate the application, the department shall identify the items required to complete the application. The applicant has 20 working days after receipt of an incomplete notification or request for additional information to submit the information, unless an extension beyond the 20 working days is approved by the department. The department shall determine the adequacy of the applicant's response to each incomplete item within 20 days after receipt of the response and shall notify the applicant in writing if the application is or is not complete.

Once a designated representative submits a timely and complete acid rain permit application, the owners or operators of the affected source and the affected units covered by the permit application are considered in compliance with the requirement to have an acid rain permit until the final permit is issued, if any requested additional information is submitted during the permitting process.

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

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

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

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

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

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

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

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

(3)  The following information on emissions:

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

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

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

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

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

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

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

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

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

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

(6)  A signed and notarized certification of applicant form, as provided by the department;

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

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

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

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

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

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

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

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

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

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

(b)  A description of the requirements for which the source is not in compliance at the time of permit issuance and a narrative description and a compliance schedule of how the source will achieve compliance with such requirements. The compliance schedule must include a statement that progress reports will be submitted at least once every six months; and

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

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

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

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

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

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

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

(17)  A certification by a responsible official of the truth, accuracy, and completeness of any application form, report, or compliance certification submitted to the department. This certification and any other required certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the documents are true, accurate, and complete; and

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

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

**Source:** 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 36 SDR 207, effective June 28, 2010.

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

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

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

**74:36:05:13.  Applicant required to supplement or correct application.** If the applicant is aware that the application is incomplete or that any relevant facts or information contained in an application are incorrect, the applicant shall submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable after the application is filed but before the release of the draft permit.

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

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

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

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

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

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

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

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

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

**74:36:05:16.  Statement of basis for recommended permit conditions.** The department shall review the complete application for a Part 70 operating permit and develop a statement that sets forth the legal and factual basis for the recommended permit conditions, including references to the applicable statutory or regulatory provisions. The department shall provide this statement to EPA, the applicant, and, upon request, to the public and affected states with the draft permit.

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

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

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

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

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

(2)  The type of operation;

(3)  The facility and mailing address;

(4)  The date on which 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:

(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. Monitoring requirements under this subdivision 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, 2018);

(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, 2018); 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

(1)  A brief statement describing the source, including the name and address of the permittee;

(2)  The activity or activities involved in the permit action;

(3)  The emissions change involved in any permit modification;

(4)  The department's recommendation and the reasons for it;

(5)  A statement that a person may submit comments or contest the draft permit within 30 days after publication of the notice. The statement shall also describe the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09; and

(6)  A statement describing where copies of the draft permit or other information may be obtained.

The department shall provide to the interested parties a 30-day notice of any hearing to contest a draft permit.

**Source:** 19 SDR 157, effective April 22, 1993; 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

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

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

**74:36:05:18.  Public and affected state review of draft permit.** During the public comment period, any interested person or affected state may submit written comments on the draft permit or request a contested case hearing. All comments will be considered in making a final permit decision on the draft permit as provided in §§ 74:36:05:20 and 74:36:05:20.01. A request for a contested case hearing must be in writing and prepared and filed in accordance with article 74:09. The department is not required to accept recommendations or comments that are not based on applicable requirements of this article or the requirements of the Clean Air Act.

**Source:** 19 SDR 157, adopted April 22, 1993, effective November 15, 1994; 20 SDR 125, amended February 9, 1994, effective November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

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

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

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

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

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

**74:36:05:20.01.  Final permit decision -- Notice to interested persons.** The department shall make its final permit decision within 30 days of the end of the public comment period on a draft permit. The department shall notify, in writing, the applicant and each person or affected state that submitted written comments or requested notice of the final permit decision. The notice shall include reference to the procedures for contesting the final permit decision and requesting a hearing in accordance with article 74:09. For the purpose of this section, the final permit decision means proposing a permit, denying a permit, or terminating a permit.

The proposed Part 70 operating permit must be submitted to EPA within 30 days of notifying the applicant and each person or affected state that submitted written comments or requested notification of the final permit decision except under the following conditions:

(1)  A later effective date is specified in the final permit decision;

(2)  A contested case hearing is requested; or

(3)  No comments or request for changes in the draft permit were received during the public notice period on the draft permit. In this case, the draft permit automatically becomes the final permit decision and the proposed Part 70 operating permit is submitted to EPA.

**Source:** 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:25, 20 SDR 125, effective February 9, 1994; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

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

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

**74:36:05:20.02.  Petitions for contested case hearing.** The applicant, interested person, or affected state may petition the board and obtain a contested case hearing to dispute the department's draft permit. Any other person may petition to intervene and request a hearing if the person has an interest affected by the department's draft permit. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after the notice required by § 74:36:05:17.

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

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

**Source:** SL 1975, ch 16, §1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:01:02, 34:10:01:22.05, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:39, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 50, effective October 4, 1987; transferred from § 74:26:01:39, 19 SDR 157, effective April 22, 1993; transferred from § 74:36:05:26, 20 SDR 125, effective February 9, 1994; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 39 SDR 219, effective June 25, 2013.

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

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

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

**Source:** 19 SDR 157, adopted April 22, 1993, effective November 15, 1994; 20 SDR 125, transferred from § 74:36:05:19 and amended February 9, 1994, effective November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; 25 SDR 123, effective April 4, 1999; 36 SDR 207, effective June 28, 2010.

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

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

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

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

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

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

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

**74:36:05:21.01.  Department response to EPA objection.** The department shall respond within 90 days to the EPA objection. The department may either revise the proposed Part 70 operating permit or justify its position on the proposed Part 70 operating permit to EPA. If the department decides to revise the proposed Part 70 operating permit, it shall follow the procedural requirements for an initial Part 70 operating permit, administrative permit amendment, minor permit amendment, or permit modification, as applicable.

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

**Source:** 20 SDR 125, adopted February 9, 1994, effective November 15, 1994; 21 SDR 119, amended January 5, 1995, and effective date changed to March 15, 1995; 36 SDR 207, effective June 28, 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If a permit applicant requests it, the department must issue permits that contain terms and conditions, including all requirements under § 74:36:05:16.01, allowing for the trading of increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant must include in its permit application the proposed replicable procedures and permit terms that ensure that the emission trades are quantifiable and enforceable. Any emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades shall not be permitted for trading of emissions. The written notice must include, at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

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

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

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

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

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

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

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

**74:36:05:32.  Administrative permit amendment required.** An administrative permit amendment may be issued for a revision to a permit meeting the requirements of § 74:36:01:03. An application for an administrative permit amendment shall contain a description of the change and documentation supporting the applicant's claim the revision qualifies as an administrative permit amendment.

**Source:** 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996; 36 SDR 207, effective June 28, 2010.

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

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

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

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

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

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

**74:36:05:34.  Minor permit amendment required.** A Part 70 source may request a minor permit amendment under §§ 74:36:05:35 to 74:36:05:38, inclusive, for a change that does not constitute a modification and is not prohibited under any applicable requirement under Title I of the Clean Air Act.

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

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

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

**74:36:05:35.  Requirements for minor permit amendments.** A minor permit amendment is an amendment to an existing permit and is issued by the secretary. A minor permit amendment may be issued by the secretary if the proposed revision meets the following requirements:

(1)  It does not violate any applicable requirement;

(2)  It does not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;

(3)  It does not require or change a case-by-case determination of an emission limit or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(4)  It does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement that the source has assumed to avoid an applicable requirement, a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I, and an alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Clean Air Act; and

(5)  It does not constitute a modification under Title I of the Clean Air Act.

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

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

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

**74:36:05:36.  Application for minor permit amendment.** An application for a minor permit amendment shall include the following:

(1)  A description of the proposed change, the resulting change in emissions, and any new applicable requirements;

(2)  The source's suggested draft permit;

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

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

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

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

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

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

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

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

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

**74:36:05:38.  Department deadline to approve minor permit amendment.** The department shall take the following final action on a proposed minor permit amendment within 90 days after receipt of a complete application for a minor permit amendment or 15 days after the end of EPA's 45-day review period, whichever is later:

(1)  Issue the minor permit amendment as proposed;

(2)  Deny the minor permit amendment application;

(3)  Determine that the requested minor permit amendment should be processed as a permit modification; or

(4)  Revise the proposed minor permit amendment and transmit the revised amendment to EPA.

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

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

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

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

**74:36:05:39.  Permit modifications.** Permit modifications are subject to the same procedural requirements in §§ 74:36:05:08 to 74:36:05:23, inclusive, as the original permit issuance, except that the required review covers only the proposed changes rather than the unchanged activities of the permittee.

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

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

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

**74:36:05:39.01.  Procedures for an insignificant increase in allowable emissions.** The department shall take the following final action on the proposed insignificant increase in allowable emissions within 90 days after receipt of a complete application for the permit revision or 15 days after the end of EPA's 45-day review period, whichever is later:

(1)  Issue the permit revision as proposed;

(2)  Deny the application for a permit revision; or

(3)  Determine the requested permit revision should be processed as a permit modification.

The department is not required to public notice an insignificant increase in allowable emissions; but the final permit decision for an insignificant increase in allowable emissions must be submitted to EPA for a 45-day review. The department may not issue a final permit for an insignificant increase in allowable emissions until after EPA's 45-day review or until EPA has notified the department that EPA will not object to the issuance of the permit revision.

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

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

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

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

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

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

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

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

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

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

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

**74:36:05:41.  Procedures to reopen permit.** Reopening a permit shall follow the procedural requirements to issue an initial permit and shall affect only those parts of the permit for which cause to reopen exists. The department shall follow the procedural requirements for initial permit issuance and shall notify the source at least 30 days before reopening a permit issued to the source. The department may provide a shorter notice in an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**74:36:05:47.  Notice of operating noncompliance -- Contents.** If the department determines that the operation of a source is not in compliance with the rules, statutory requirements, or permit conditions, the department may issue a notice of such findings to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated, reference to this section, and the alleged facts upon which the determination is based. The secretary, with the concurrence of the alleged violator, may settle an issue of noncompliance by specifying a compliance agreement, which may include a penalty under SDCL 34A-1-39 and the date for final compliance of the source. If a compliance agreement can not be negotiated, the department may petition the chairman of the board for a contested case hearing or may file a civil penalty or injunctive action in circuit court.

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

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

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

**74:36:05:47.01.  Circumvention of emissions not allowed.** A person may not install or cause the installation or use of a device or a means which conceals or dilutes an emission of air pollutants that would otherwise violate this article or the Clean Air Act. This includes operating a source, unit, or control device which emits pollutants into the ambient air from an opening other than the stack, vent, or equivalent opening from which they were designed to be emitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

**74:36:05:51.  General permits.** The secretary may issue a general permit to a category of air pollution sources that meets the following:

(1)  Involve the same or substantially similar types of operations;

(2)  Require the same or similar type of air emission limits; and

(3)  Require the same or similar record keeping and monitoring.

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

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

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

**Law Implemented:** SDCL 34A-1-56.

**Note:** The procedural requirements for obtaining a general permit under this chapter are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:23, inclusive.

**74:36:05:52.  Secretary may require an individual permit.** The secretary may require any source applying for a general permit or operating under a general permit to apply for and obtain an individual air quality permit. Individual air quality permits may be required at the discretion of the secretary, including under the following circumstances;

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

(2)  The owner or operator is not in compliance with the conditions of the general permit.

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

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

**Law Implemented:** SDCL 34A-1-56.

**CHAPTER 74:36:06**

**REGULATED AIR POLLUTANT EMISSIONS**

Section

74:36:06:01 Applicability.

74:36:06:02 Allowable emissions for fuel-burning units.

74:36:06:03 Allowable emissions for process industry units.

74:36:06:04 Particulate emission restrictions for incinerators and waste wood burners.

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

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

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

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

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

(1)  Particulate matter:

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

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

E = 0.811H**-0.131**, where

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

H = heat input in millions of Btus per hour;

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

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

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

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

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

(1)  Particulate matter:

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

E = 4.10 x P**0.67**, and

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

E = [55.0 x P**0.11**] - 40, where

E = the rate of emission in pounds per hour and

P = process weight rate in tons per hour;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CHAPTER 74:36:07**

**NEW SOURCE PERFORMANCE STANDARDS**

Section

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**74:36:07:01.  New source performance standards.** The general provisions for new source performance standards are those in 40 C.F.R. § 60, Subpart A (July 1, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart D (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart Db (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart Dc (July 1, 2018). A source that operates a unit subject to Subpart Dc 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 Subpart Dc. Exempted sources must still meet the applicable requirements in Subpart Dc.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart E (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018), 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 through 60.38e (July 1, 2018).

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, 2018) 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart Ec (July 1, 2018).

**Source:** 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart Ea (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart Eb (July 1, 2018).

**Source:** 23 SDR 106, effective December 29. 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

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

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

**74:36:07:09.  Standards of performance for portland cement plants.** The standards of performance for portland cement plants are those in 40 C.F.R. § 60, Subpart F (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, Subpart I (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

**74:36:07:12.  Standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978.** The standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978, are those in 40 C.F.R. § 60, Subpart K (July 1, 2018). A source that operates a unit subject to Subpart K 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 K. Exempted sources must still meet the applicable requirements in Subpart K.

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:14:05, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:13.  Standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984.** The standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984, are those in 40 C.F.R. § 60, Subpart Ka (July 1, 2018). A source that operates a unit subject to Subpart Ka 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 Ka. Exempted sources must still meet the applicable requirements in Subpart Ka.

**Source:** 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:20:19, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:14.  Standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984.** The standards of performance for volatile organic liquid storage vessels including petroleum liquid storage vessels for which construction, reconstruction, or modification commenced after July 23, 1984, are those in 40 C.F.R. § 60, Subpart Kb (July 1, 2018). A source that operates a unit subject to Subpart Kb 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 Kb. Exempted sources must still meet the applicable requirements in Subpart Kb.

**Source:** 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:25:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:15.  Standards of performance for sewage treatment plants.** The standards of performance for sewage treatment plants are those in 40 C.F.R. § 60, Subpart O (July 1, 2018).

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:15:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:16:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:17.  Standards of performance for grain elevators.** The standards of performance for grain elevators are those in 40 C.F.R. § 60, Subpart DD (July 1, 2018). A source subject to Subpart DD 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 DD. Exempted sources must still meet the applicable requirements in Subpart DD.

**Source:** 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:17:06, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:18.  Standards of performance for stationary gas turbines.** The standards of performance for stationary gas turbines are those in 40 C.F.R. § 60, Subpart GG (July 1, 2018).

**Source:** 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:19:07, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:19.  Standards of performance for lime manufacturing plants.** The standards of performance for lime manufacturing plants are those in 40 C.F.R. § 60, Subpart HH (July 1, 2018).

**Source:** 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:18:10, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:20.  Standards of performance for metallic mineral processing plants.** The standards of performance for metallic mineral processing plants are those in 40 C.F.R. § 60, Subpart LL (July 1, 2018).

**Source:** 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:21:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:21.  Standards of performance for pressure-sensitive tape and label surface coating operations.** The standards of performance for pressure-sensitive tape and label surface coating operations are those in 40 C.F.R. § 60, Subpart RR (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:22.  Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry.** The standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry are those in 40 C.F.R. § 60, Subpart VV (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:23.  Standards of performance for bulk gasoline terminals.** The standards of performance for bulk gasoline terminals are those in 40 C.F.R. § 60, Subpart XX (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:24.  Standards of performance for new residential wood heaters.** The standards of performance for new residential wood heaters are those in 40 C.F.R. § 60, Subpart AAA (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:25.  Standards of performance for petroleum dry cleaners.** The standards of performance for petroleum dry cleaners are those in 40 C.F.R. § 60, Subpart JJJ (July 1, 2018). A source subject to Subpart JJJ 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 JJJ. Exempted sources must still meet the applicable requirements in Subpart JJJ.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 distillation operations are those in 40 C.F.R. § 60, Subpart NNN (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:27.  Standards of performance for nonmetallic mineral processing plants.** The standards of performance for nonmetallic mineral processing plants are those in 40 C.F.R. § 60, Subpart OOO (July 1, 2018).

**Source:** 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:23:02, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:28.  Standards of performance for magnetic tape coating facilities.** The standards of performance for magnetic tape coating facilities are those in 40 C.F.R. § 60, Subpart SSS (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

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

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

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

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

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

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

**Law Implemented:** SDCL 34A-1-11.

**74:36:07:31.  Standards of performance for graphic arts industry -- Publication rotogravure printing.** The standards of performance for publication rotogravure printing in the graphic arts industry are those in 40 C.F.R. § 60, Subpart QQ (July 1, 2018).

**Source:** 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 23 SDR 106, effective December 29, 1996; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 through 74:36:07:42:

(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, 2018), to determine the landfill nonmethane organic compound emission rate.

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 209, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 46 SDR 64, effective November 25, 2019.

**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, 2018), and the control requirements in § 74:36:07:37.

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018);

(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.

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

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

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

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

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

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

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 46 SDR 64, effective November 25, 2019.

**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, 2018).

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

This section is no longer in effect on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act. The secretary shall certify to the Interim Rules Review Committee that the approval has occurred.

**Source:** 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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.** Repealed.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**74:36:07:44.  Standards of performance for nitric acid plants.** The standards of performance for nitric acid plants are those in 40 C.F.R. § 60, Subpart G (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:45.  Standards of performance for sulfuric acid plants.** The standards of performance for sulfuric acid plants are those in 40 C.F.R. § 60, Subpart H (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:47.  Standards of performance for secondary lead smelters.** The standards of performance for secondary lead smelters are those in 40 C.F.R. § 60, Subpart L (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:48.  Standards of performance for secondary brass and bronze production plants.** The standards of performance for secondary brass and bronze production plants are those in 40 C.F.R. § 60, Subpart M (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:49.  Standards of performance for primary emissions from basic oxygen process furnaces for which construction commenced after June 11, 1973.** The standards of performance for basic oxygen process furnaces are those in 40 C.F.R. § 60, Subpart N (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:50.  Standards of performance for secondary emissions from basic oxygen process steelmaking facilities for which construction commenced after January 20, 1983.** The standards of performance for basic oxygen process steelmaking facilities are those in 40 C.F.R. § 60, Subpart Na (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:51.  Standards of performance for primary copper smelter.** The standards of performance for primary copper smelters are those in 40 C.F.R. § 60, Subpart P (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:52.  Standards of performance for primary zinc smelter.** The standards of performance for primary zinc smelters are those in 40 C.F.R. § 60, Subpart Q (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:53.  Standards of performance for primary lead smelter.** The standards of performance for primary lead smelters are those in 40 C.F.R. § 60, Subpart R (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:54.  Standards of performance for primary aluminum reduction plant.** The standards of performance for primary aluminum reduction plants are those in 40 C.F.R. § 60, Subpart S (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:55.  Standards of performance for wet-process phosphoric acid plant.** The standards of performance for wet-process phosphoric acid plants are those in 40 C.F.R. § 60, Subpart T (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:56.  Standards of performance for superphosphoric acid plant.** The standards of performance for superphosphoric acid plants are those in 40 C.F.R. § 60, Subpart U (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:57.  Standards of performance for diammonium phosphate plant.** The standards of performance for diammonium phosphate plants are those in 40 C.F.R. § 60, Subpart V (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:58.  Standards of performance for triple superphosphate plant.** The standards of performance for triple superphosphate plants are those in 40 C.F.R. § 60, Subpart W (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:59.  Standards of performance for granular triple superphosphate storage facility.** The standards of performance for granular triple superphosphate storage facilities are those in 40 C.F.R. § 60, Subpart X (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:60.  Standards of performance for ferroalloy production plant.** The standards of performance for ferroalloy production plants are those in 40 C.F.R. § 60, Subpart Z (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:61.  Standards of performance for electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983.** The standards of performance for electric arc furnaces and argon-oxygen decarburization vessels are those in 40 C.F.R. § 60, Subpart AAa (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:62.  Standards of performance for kraft pulp mills.** The standards of performance for kraft pulp mills are those in 40 C.F.R. § 60, Subpart BB (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:63.  Standards of performance for glass manufacturing plant.** The standards of performance for glass manufacturing plants are those in 40 C.F.R. § 60, Subpart CC (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:64.  Standards of performance for surface coating of metal furniture.** The standards of performance for surface coating of metal furniture are those in 40 C.F.R. § 60, Subpart EE (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:65.  Standards of performance for lead-acid battery manufacturing plant.** The standards of performance for lead-acid battery manufacturing plants are those in 40 C.F.R. § 60, Subpart KK (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:66.  Standards of performance for automobile and light duty truck surface coating operations.** The standards of performance for automobile and light duty truck surface coating operations are those in 40 C.F.R. § 60, Subpart MM (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 208, effective June 28, 2010; 39 SDR 219, effective June 25,2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:67.  Standards of performance for phosphate rock plants.** The standards of performance for phosphate rock plants are those in 40 C.F.R. § 60, Subpart NN (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:68.  Standards of performance for ammonium sulfate manufacture.** The standards of performance for ammonium sulfate manufacture are those in 40 C.F.R. § 60, Subpart PP (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:69.  Standards of performance for industrial surface coating -- Large appliances.** The standards of performance for industrial surface coating of large appliances are those in 40 C.F.R. § 60, Subpart SS (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:70.  Standards of performance for metal coil surface coating.** The standards of performance for metal coil surface coating are those in 40 C.F.R. § 60, Subpart TT (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:71.  Standards of performance for asphalt processing and asphalt roofing manufacture.** The standards of performance for asphalt processing and asphalt roofing manufacture are those in 40 C.F.R. § 60, Subpart UU (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:72.  Standards of performance for beverage can surface coating industry.** The standards of performance for beverage can surface coating industry are those in 40 C.F.R. § 60, Subpart WW (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:73.  Standards of performance for rubber tire manufacturing industry.** The standards of performance for rubber tire manufacturing industry are those in 40 C.F.R. § 60, Subpart BBB (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:74.  Standards of performance for volatile organic compound emissions from polymer manufacturing industry.** The standards of performance for polymer manufacturing industry are those in 40 C.F.R. § 60, Subpart DDD (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:75.  Standards of performance for flexible vinyl and urethane coating and printing.** The standards of performance for flexible vinyl and urethane coating and printing are those in 40 C.F.R. § 60, Subpart FFF (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:76.  Standards of performance for equipment leaks of VOC in petroleum refineries.** The standards of performance for equipment leaks in petroleum refineries are those in 40 C.F.R. § 60, Subpart GGG (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:77.  Standards of performance for synthetic fiber production facility.** The standards of performance for synthetic fiber production facilities are those in 40 C.F.R. § 60, Subpart HHH (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:78.  Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry air oxidation unit process.** The standards of performance for synthetic organic chemical manufacturing industry air oxidation unit processes are those in 40 C.F.R. § 60, Subpart III (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:79.  Standards of performance for equipment leaks of VOC from onshore natural gas processing plant.** The standards of performance for equipment leaks from onshore natural gas processing plants are those in 40 C.F.R. § 60, Subpart KKK (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:80.  Standards of performance for onshore natural gas processing.** The standards of performance for onshore natural gas processing are those in 40 C.F.R. § 60, Subpart LLL (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:81.  Standards of performance for wool fiberglass insulation manufacturing plant.** The standards of performance for wool fiberglass insulation manufacturing plants are those in 40 C.F.R. § 60, Subpart PPP (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:82.  Standards of performance for VOC emissions from petroleum refinery wastewater system.** The standards of performance for petroleum refinery wastewater systems are those in 40 C.F.R. § 60, Subpart QQQ (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:83.  Standards of performance for industrial surface coating -- Surface coating of plastic parts for business machines.** The standards of performance for the surface coating of plastic parts for business machines are those in 40 C.F.R. § 60, Subpart TTT (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:84.  Standards of performance for polymeric coating of supporting substrates facility.** The standards of performance for polymeric coating of supporting substrates facilities are those in 40 C.F.R. § 60, Subpart VVV (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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.** The standards of performance for small municipal waste combustion units are those in 40 C.F.R. § 60, Subpart AAAA (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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.** The standards of performance for commercial solid waste incineration units are those in 40 C.F.R. § 60, Subpart CCCC (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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.** The standards of performance for other solid waste incineration units are those in 40 C.F.R. § 60, Subpart EEEE (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). A source subject to Subpart IIII is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart IIII. Exempted sources must still meet the applicable requirements in Subpart IIII.

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 through 60.4420, inclusive, (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). A source subject to Subpart JJJJ is exempt from the obligation to obtain a Part 70 operating permit if the source is not required to obtain a Part 70 operating permit for a reason other than the source is subject to Subpart JJJJ. Exempted sources must still meet the applicable requirements in Subpart JJJJ.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:91. Standards of performance for nitric acid plants.** The standards of performance for nitric acid plants are those in 40 C.F.R. § 60, Subpart Ga (July 1, 2018).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:94.  Initial design capacity report for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill shall submit an initial design capacity report to the secretary no later than 90 days after the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act, except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit an initial design capacity report if the owner or operator already submitted the initial design capacity report on or before July 17, 2014. The initial design capacity report shall contain:

(1)  A map or plot of the landfill providing the size and location of the landfill and identifying all areas where solid waste may be landfilled; and

(2)  If the maximum design capacity is specified in a permit, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation shall include a site-specific density, which shall be recalculated annually. Any density conversions shall be documented and submitted with the design capacity report. The department may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

**Source:** 46 SDR 64, effective November 25, 2019.

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

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

**74:36:07:95.  Amended design capacity report for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an amended design capacity report within 90 days of an increase in the maximum design capacity of the landfill which meets or exceeds 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 74:36:07:98(2)(b).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:96.  Operating permits for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume is exempt from the obligation to obtain a Part 70 operating permit, if the existing municipal solid waste landfill is not required to obtain a Part 70 operating permit for a reason other than being subject to the requirements for an existing municipal solid waste landfill. For purposes of submitting a timely application for a Part 70 operating permit, the owner or operator of an existing municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume on the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act, and not otherwise subject to a Part 70 operating permit, shall submit an application for a Part 70 operating permit within 90 days after the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act.

The owner or operator is no longer subject to the requirement to maintain a Part 70 operating permit for the landfill if the landfill is closed and not otherwise subject to a Part 70 operating permit and if either of the following conditions are met:

(1)  The landfill was never subject to the requirement to install and operate a gas collection and control system; or

(2)  The landfill meets the conditions for control system removal criteria specified in § 74:36:07:144.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:97.  Calculating Prevention of Significant Deterioration emissions for existing municipal solid waste landfills.** When calculating Prevention of Significant Deterioration emissions for an existing municipal solid waste landfill, the owner or operator shall estimate the nonmethane organic compound emission rate for comparison to the Prevention of Significant Deterioration major source and significance levels in 40 C.F.R. §§ 51.166 or 52.21 (July 1, 2018) using EPA's AP-42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources (January 1995) or other approved measurement procedures.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:98.  Nonmethane organic compound emission rate options for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill that increases its maximum design capacity equal to or greater than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall comply with §§ 74:36:07:106 through 74:36:07:145 or calculate its nonmethane organic compound emission rate using the following procedures:

(1)  Calculate an initial nonmethane organic compound emission rate using the procedures specified in § 74:36:07:99;

(2)  If the calculated nonmethane organic compound emission rate is less than 34 megagrams per year, the owner or operator shall:

(a)  Submit an annual nonmethane organic compound emission rate report according to § 74:36:07:125, except as provided in § 74:36:07:125(3); and

(b)  Recalculate the nonmethane organic compound emission rate annually using the procedures specified in § 74:36:07:99 until such time as the calculated nonmethane organic compound emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed;

(3)  If the calculated nonmethane organic compound emission rate, upon initial calculation or annual recalculation is equal to or greater than 34 megagrams per year, the owner or operator shall comply with §§ 74:36:07:106 to 74:36:07:145, inclusive, calculate nonmethane organic compound emissions using the next higher tier in §§ 74:36:07:101 and 74:36:07:102 or conduct a surface emission monitoring demonstration using the procedures specified in § 74:36:07:103;

(4)  If the landfill is permanently closed, a closure report for an existing municipal solid waste landfill shall be submitted to the Secretary, except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit a closure report if the owner or operator already submitted a closure report on or before July 17, 2014; and

(5)  For the closed landfill subcategory, if the most recently calculated nonmethane organic compound emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall:

(a)  Submit a gas collection and control system design plan for an existing municipal solid waste landfill, unless a collection and control system design plan has already been submitted, and install and operate a collection and control system as provided in §§ 74:36:07:106 and 74:36:07:109 within 30 months after the nonmethane organic compound emission rate is equal to or greater than 50 megagrams per year;

(b)  Calculate nonmethane organic compound emissions using the next higher tier in §§ 74:36:07:101 or 74:36:07:102; or

(c)  Conduct a surface emission monitoring demonstration using the procedures specified in § 74:36:07:103.

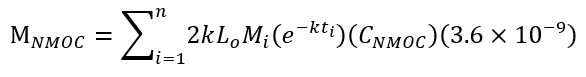
**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:99.  Calculate nonmethane organic compound emission rate for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill shall calculate the nonmethane organic compound emission rate using the appropriate equation in subdivision (1) or (2):

(1)  If the actual year-to-year solid waste acceptance rate is known, the mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for mass of solid waste if documentation of the nature and amount of such wastes is maintained; and



(2)  If the actual year-to-year solid waste acceptance rate is unknown, the mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for the average annual acceptance rate, if documentation of the nature and amount of such wastes is maintained:

MNMOC = 2Lo R(e-kc - e-kt)CNMOC(3.6×10-9), where

MNMOC = Mass emission rate of nonmethane organic compounds, in megagrams per year;

k = Methane generation rate constant, in year−1;

Lo = Methane generation potential, in cubic meters per megagram solid waste;

Mi = Mass of solid waste in the ith section, in megagrams;

R = Average annual acceptance rate, in megagrams per year;

t = Age of the landfill, years;

ti = Age of the ith section, in years;

CNMOC = Nonmethane organic compound concentration, in parts per million by volume as hexane;

c = Time since closure, years; for an active landfill c = 0 and e−kc = 1; and

3.6 x 10-9 = Conversion factor.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:100.  Tier 1 nonmethane organic compound emission rate for existing municipal solid waste landfills.** If the nonmethane organic compound emission rate calculated in § 74:36:07:99 is:

(1)  Less than 34 megagrams per year, the owner or operator shall submit a nonmethane organic compound emission rate report and recalculate the nonmethane organic compound emission rate annually as required under § 74:36:07:98;

(2)  Equal to or greater than 34 megagrams per year, the owner or operator shall:

(a)  Submit a gas collection and control system design plan within one year and install and operate a gas collection and control system within 30 months according to §§ 74:36:07:106 and § 74:36:07:109;

(b)  Determine a site-specific nonmethane organic compound concentration and recalculate the nonmethane organic compound emission rate using the Tier 2 procedures provided in § 74:36:07:101; or

(c)  Determine a site-specific methane generation rate constant and recalculate the nonmethane organic compound emission rate using the Tier 3 procedures provided in § 74:36:07:102.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:101.  Tier 2 nonmethane organic compound emission rate for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill shall install at least two sample probes per hectare, evenly distributed over the landfill surface that has retained waste for at least two years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the nonmethane organic compound concentration using 40 C.F.R. Part 60, Appendix A, Method 25 or 25C (July 1, 2018). Taking composite samples from different probes into a single cylinder is allowed provided that equal sample volumes shall be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements shall be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples shall be used in the analysis. The landfill owner or operator shall divide the nonmethane organic compound concentration from Method 25 or 25C by six to convert from nonmethane organic compound concentration as carbon to nonmethane organic compound concentration as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe shall be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples shall be collected from the header pipe. The owner or operator shall determine the site-specific nonmethane organic compound concentration using the following sampling procedure:

(1)  Within 60 days after the date of determining the nonmethane organic compound concentration and corresponding nonmethane organic compound emission rate, the owner or operator shall submit the results;

(2)  The owner or operator shall recalculate the nonmethane organic compound mass emission rate using the appropriate equation in § 74:36:07:99 using the average site-specific nonmethane organic compound concentration from the collected samples instead of the default value;

(3)  If the resulting nonmethane organic compound mass emission rate is less than 34 megagrams per year, the owner or operator shall submit an estimate of nonmethane organic compound emissions in the annual nonmethane organic compound emission rate report. The site-specific nonmethane organic compound concentration shall be retested every five years; and

(4)  If the nonmethane organic compound mass emission rate as calculated using the Tier 2 site-specific nonmethane organic compound concentration is equal to or greater than 34 megagrams per year, the owner or operator shall:

(a)  Submit a gas collection and control system design plan within one year and install and operate a gas collection and control system within 30 months according to §§ 74:36:07:106 and 74:36:07:109;

(b)  Determine a site-specific methane generation rate constant and recalculate the nonmethane organic compound emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in § 74:36:07:102; or

(c)  Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in § 74:36:07:103.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:102.  Tier 3 nonmethane organic compound emission rate for existing municipal solid waste landfills.** The site-specific methane generation rate constant shall be determined using the procedures provided in 40 C.F.R. Part 60, Appendix A, Method 2E (July 1, 2018). The owner or operator shall estimate the nonmethane organic compound mass emission rate using the appropriate equation in § 74:36:07:99 and using a site-specific methane generation rate constant, and the site-specific nonmethane organic compound concentration as determined in § 74:36:07:101 instead of the default values. The landfill owner or operator shall compare the resulting nonmethane organic compound mass emission rate to the standard of 34 megagrams per year:

(1)  If the nonmethane organic compound mass emission rate as calculated using the Tier 2 site-specific nonmethane organic compound concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 megagrams per year, the owner or operator shall:

(a)  Submit a gas collection and control system design plan within one year and install and operate a gas collection and control system within 30 months according to §§ 74:36:07:106 and 74:36:07:109; or

(b)  Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in § 74:36:07:103; or

(2)  If the nonmethane organic compound mass emission rate is less than 34 megagrams per year, the owner or operator shall recalculate the nonmethane organic compound mass emission rate annually using the appropriate equation in § 74:36:07:99 and using the site-specific Tier 2 nonmethane organic compound concentration and Tier 3 methane generation rate constant and submit the results in the annual nonmethane organic compound emission rate report. The calculation of the methane generation rate constant is performed only once, and the value obtained from this test shall be used in all subsequent annual nonmethane organic compound emission rate calculations.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:103.  Tier 4 nonmethane organic compound emission rate for existing municipal solid waste landfills.** Tier 4 is allowed only if the owner or operator can demonstrate that nonmethane organic compound emissions are greater than or equal to 34 megagrams per year but less than 50 megagrams per year using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate nonmethane organic compound emissions are 50 megagrams per year or greater, Tier 4 cannot be used and the owner or operator must meet the criteria in subdivision (8). If Tier 4 is being used, the owner or operator shall demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring shall be conducted on a quarterly basis using the following procedures:

(1)  The owner or operator shall measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 74:36:07:115;

(2)  The background concentration shall be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill;

(3)  Surface emission monitoring shall be performed in accordance with 40 C.F.R. Part 60, Appendix A, Method 21, section 8.3.1 (July 1, 2018), except the probe inlet shall be placed no more than 5 centimeters above the landfill surface. The constant measurement of distance above the surface should be based on a mechanical device:

(a)  The owner or operator shall use a wind barrier when onsite average wind speed exceeds four miles per hour or two meters per second or gust exceed 10 miles per hour. Average on-site wind speed shall be determined in an open area at 5-minute intervals using an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier shall surround the surface emission monitor and placed on the ground to ensure wind turbulence is blocked. Surface emission monitoring cannot be conducted if average wind speed exceeds 25 miles per hour; and

(b)  Landfill surface areas where visual observations indicate elevated concentrations of landfill gas and all cover penetrations shall be monitored using a device meeting the specifications provided in § 74:36:07:115;

(4)  Each owner or operator seeking to comply with the Tier 4 provisions in subdivision (6) of this section shall maintain records of surface emission monitoring and submit a Tier 4 surface emissions report;

(5)  If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall submit a gas collection and control system design plan within one year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill and install and operate a gas collection and control system according to §§ 74:36:07:106 and 74:36:07:109 within 30 months of the most recent nonmethane organic compound emission rate report in which the nonmethane organic compound emission rate equals or exceeds 34 megagrams per year based on Tier 2;

(6)  If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall continue quarterly surface emission monitoring;

(7)  If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall conduct annual surface emission monitoring; and

(8)  If a landfill has installed and operates a collection and control system that is not required, then the collection and control system shall meet the following criteria:

(a)  The gas collection and control system shall have operated for at least 6,570 out of 8,760 hours preceding the Tier 4 surface emissions monitoring demonstration; and

(b)  During the Tier 4 surface emissions monitoring demonstration, the gas collection and control system shall operate as it normally would to collect and control as much landfill gas as possible.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:104.  Alternative nonmethane organic compound emission rate for existing municipal solid waste landfills.** The owner or operator may use an alternative method to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant as an alternative to the methods required in §§ 74:36:07:101 and 74:36:07:102, if the method has been approved by the Administrator.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:105.  Existing municipal solid waste landfill emission gjuidelines.** The owner or operator of an existing municipal solid waste landfill that meets the following conditions shall comply with §§ 74:36:07:106 through 74:36:07:145:

(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 by mass and 2.5 million cubic meters by volume; and

(3)  The landfill has a nonmethane organic compound emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater; or

(4)  The landfill is in the closed landfill subcategory and has a nonmethane organic compound emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emission monitoring shows a surface concentration of 500 parts per million methane or greater.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:106.  Installation of a gas collection and control system at existing municipal solid waste landfill..** The owner or operator of an existing municipal solid waste landfill that meets the requirements in § 74:36:07:105 shall plan, award contracts, install and start up a collection and control system that captures the gas generated by the landfill within 30 months after:

(1)  The effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act and the existing municipal solid waste landfill meets one of the requirements in subdivisions (2) through (5); and

(2)  The first annual nonmethane organic compound emission report in which the nonmethane organic compound emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates the nonmethane organic compound emission rate is less than 34 megagrams per year;

(3)  The first annual nonmethane organic compound emission rate report for a landfill in the closed landfill subcategory in which the nonmethane organic compound emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the nonmethane organic compound emission rate is less than 50 megagrams per year;

(4)  The first annual nonmethane organic compound emission rate report in which the nonmethane organic compound emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater; or

(5)  The first annual nonmethane organic compound emission rate report for a landfill in the closed landfill subcategory in which the nonmethane organic compound emission rate equals or exceeds 50 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:107.  Existing municipal solid waste landfill active and passive collection systems.** The department shall approve a collection system if it meets the following:

(1)  An active collection system shall:

(a)  Be designed to handle the maximum expected gas flow rate for the entire area of the landfill that warrants control over the intended use period of the gas control system equipment;

(b)  Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of five years or more if active or two years or more if closed or at final grade;

(c)  Collect gas at a sufficient extraction rate; and

(d)  Be designed to minimize off-site migration of subsurface gas;

(2)  A passive collection system shall:

(a)  Comply with the provisions specified in subdivisions (1)(a), (1)(b), and (1)(d); and

(b)  Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under 40 C.F.R. § 258.40 (July 1, 2018).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:108  Specifications for active collection systems for existing municipal solid waste landfills.** An active collection system at an existing municipal solid waste landfill shall meet the following specifications:

(1)  Each owner or operator shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the secretary:

(a)  The collection devices within the interior shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system;

(b)  The sufficient density of gas collection devices shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior;

(c)  The placement of gas collection shall control all gas producing areas, except as follows:

(i)  Any segregated area of asbestos or nondegradable material may be excluded from collection if documented. The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the Secretary upon request;

(ii)  Any nonproductive area of the landfill may be excluded from control, provided the total of all excluded areas can be shown to contribute less than one percent of the total amount of nonmethane organic compound emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the Secretary upon request. A separate nonmethane organic compound emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the nonmethane organic compound emissions estimate for the entire landfill;

(iii)The nonmethane organic compound emissions from each section proposed for exclusion shall be computed using the following equation:

Qi=2kLoMi(e-kti)(CNMOC)(3.6×10-9), where

Qi = nonmethane organic compound emission rate from the ith section, megagrams per year;

k = Methane generation rate constant, year−1;

Lo = Methane generation potential, cubic meters per megagram solid waste;

Mi = Mass of the degradable solid waste in the ith section, megagram;

ti = Age of the solid waste in the ith section, years;

CNMOC = Nonmethane organic compound concentration, parts per million by volume; and

3.6×10−9 = Conversion factor; and

(iv)  If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated closed areas that already have gas collection systems, nonmethane organic compound emissions from each physically separated closed area shall be computed using either the equation in § 74:36:07:143 or subdivision 74:36:07:131(1)(c)(iii);

(d)  The values for methane generation rate constant and nonmethane organic compound concentration determined in field testing shall be used if field testing has been performed in determining the nonmethane organic compound emission rate or the radii of influence which is the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero. If field testing has not been performed, the default values for methane generation rate constant, methane generation potential, and nonmethane organic compound concentration provided in §§ 74:36:07:99 through 7:36:07:110, inclusive, or the alternative values from §§ 74:36:07:99 through 7:36:07:110 shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in subdivision (1)(c)(i);

(2)  Gas collection devices shall be constructed using the following equipment or procedures:

(a)  The landfill gas extraction components shall be constructed of polyvinyl chloride, high density polyethylene pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to convey projected amounts of gases, withstand installation, static, and settlement forces, and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration;

(b)  Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations shall be of a dimension so as not to penetrate or block perforations; and

(c)  Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of polyvinyl chloride, high density polyethylene, fiberglass, stainless steel, or other nonporous material of suitable thickness; and

(3)  Each owner or operator shall convey the landfill gas to a control system through the collection header pipe or pipes. The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment. The maximum gas generation flow rate for an existing collection system shall be based on its flow data. The maximum gas generation flow rate for a new collection system or an existing collection system with no flow data shall be determined in accordance with subdivision 74:36:07:112(1).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:109.  Existing municipal solid waste landfill control system.** The secretary shall approve the control system if it meets one of the following requirements, except as provided in 40 C.F.R. § 60.24 (July 1, 2018):

(1)  A non-enclosed flare designed and operated in accordance with the parameters established in 40 C.F.R. § 60.18 (July 1, 2018), except as provided in § 74:36:07:123; or

(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.

The owner or operator shall route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not permitted. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, the treated landfill gas shall be controlled according to subdivision (1), (2) or (3) of this section. All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of §§ 74:36:07:106 and 74:36:07:107 or subdivision (1), (2), or (3) of this section. Atmospheric vents located on the condensate storage tank are not part of the treatment system and exempt from the requirements of this subdivision.

If a boiler or process heater is used as a control device, the landfill gas stream shall be introduced into the flame zone. The control device shall be operated within the operating parameter ranges established during the initial or most recent performance test. For the closed landfill subcategory, the initial or most recent performance test conducted on or before July 17, 2014 satisfies the performance testing requirements.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:110.  Initial control system performance test for existing municipal solid waste landfill.** The owner or operator shall conduct an initial performance test to be completed no later than 180 days after the initial startup of the approved control system. The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burns the landfill gas. The owner or operator shall use the following test methods:

(1)  For a non-enclosed flare, the net heating value of the combusted landfill gas, as determined in 40 C.F.R. § 60.18(f)(3) (July 1, 2018), is calculated from the concentration of methane in the landfill gas as measured by 40 C.F.R. Part 60, Appendix A, Method 3C (July 1, 2018). A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under 40 C.F.R. § 60.18(4) (July 1, 2018);

(2)  40 C.F.R. Part 60, Appendix A, Method 25 or 25C (July 1, 2018) shall be used to determine compliance with the 98 percent by weight efficiency or the 20 parts per million by volume outlet nonmethane organic compound concentration level, unless another method to demonstrate compliance has been approved by the secretary. Method 25C may be used at the inlet only. 40 C.F.R. Part 60, Appendix A, Method 3, 3A, or 3C (July 1, 2018) shall be used to determine oxygen for correcting the nonmethane organic compound concentration as hexane to three percent. In cases where the outlet concentration is less than 50 parts per million nonmethane organic compound as carbon (8 parts per million nonmethane organic compound as hexane), 40 C.F.R. Part 60, Appendix A, Method 25A (July 1, 2018) should be used in place of Method 25. 40 C.F.R. Part 60, Appendix A, Method 18 (July 1, 2018) may be used in conjunction with Method 25A on a limited basis or Method 3C may be used to determine methane. The methane as carbon should be subtracted from the Method 25A total hydrocarbon value as carbon to give nonmethane organic compound concentration as carbon. The owner or operator shall divide the nonmethane organic compound concentration as carbon by six to convert the nonmethane organic compound concentration as carbon to nonmethane organic compound concentration as hexane. The following equation shall be used to calculate efficiency:

*Control efficiency=(NMOCin - NMOCout)/NMOCin*, where

NMOCin = Mass of nonmethane organic compounds entering control device; and

NMOCout = Mass of nonmethane organic compounds exiting control device;

Within 60 days after the date of completing each performance test, the owner or operator shall submit the results of the performance tests, including any associated fuel analyses.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:111.  Existing municipal solid waste landfill operational standards for collection and control systems.** The owner or operator of an existing municipal solid waste landfill with a gas collection and control system used to comply with §§ 74:36:07:106, 74:36:07:107, and 74:36:07:109 shall meet the following operational standards:

(1)  Operate the collection system such that gas is collected from each area, cell, or group of cells in the existing municipal solid waste landfill in which solid waste has been in place for:

(a)  Five years or more if active; or

(b)  Two years or more if closed or at final grade;

(2)  Operate the collection system with negative pressure at each wellhead except under the following conditions:

(a)  During a fire or increased well temperature, the owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual report;

(b)  If using a geomembrane or synthetic cover, the owner or operator shall develop acceptable pressure limits in the design plan; and

(c)  A decommissioned well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Secretary;

(3)  Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius or 131 degrees Fahrenheit. The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration shall be submitted to the Secretary for approval and shall include supporting data demonstrating the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration shall satisfy both criteria in order to be approved;

(4)  Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 74:36:07:115. The owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas and all cover penetrations. Thus, the owner or operator shall monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing;

(5)  Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 74:36:07:109. In the event the collection or control system is not operating, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within one hour of the collection or control system not operating;

(6)  Operate the control system at all times when the collected gas is routed to the system; and

(7)  If monitoring demonstrates the operational requirements in subdivision (2), (3), or (4) of this section are not met, corrective action shall be taken as specified in subdivision 74:36:07:112(3) and (4) or § 74:36:07:114. If corrective actions are taken as specified in §§ 74:36:07:112 through 74:36:07:116, the monitored exceedance is not a violation of the operational requirements in this section.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:112.  Existing municipal solid waste landfill compliance provisions for gas collection system.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall determine if the gas collection system is in compliance with subdivision 74:36:07:107(1) based on the following, except as provided in subdivision 74:36:07:126(2):

(1)  For the purpose of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with subdivision 74:36:07:107(1)(a), use the appropriate equation:

(a)  For sites with unknown year-to-year solid waste acceptance rate use the following equation:

Qm=2LoR(e-kc-e-kt), and

(b)  For sites with known year-to-year solid waste acceptance rate use the following equation:

, where

Qm = Maximum expected gas generation flow rate, cubic meters per year;

Lo = Methane generation potential, cubic meters per megagram solid waste;

R = Average annual acceptance rate, megagrams per year;

Mi = Mass of solid waste in the ith section, megagrams;

k = Methane generation rate constant, year−1;

t = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years; and

ti = Age of the ith section, years.

The methane generation rate constant and methane generation potential kinetic factors should be those published in EPA's AP-42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources (January 1995) or other site-specific values demonstrated to be appropriate and approved by the secretary. If the methane generation rate constant has been determined as specified in § 74:36:07:102, the value of the methane generation rate constant determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure;

(c)  If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the appropriate equation in subdivision (a) and (b). If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the appropriate equation in subdivision (a) and (b) of this section or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment;

(2)  For the purposes of determining sufficient density of gas collectors for compliance with subdivision 74:36:07:107(1)(b), the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the secretary, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards;

(3)  For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with subdivision 74:36:07:107(1)(c), the owner or operator shall measure gauge pressure in the gas collection header applied to each individual well monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within five calendar days, except for the three conditions allowed under subdivision 74:36:07:111(2). Any attempted corrective measure shall not cause exceedances of other operational or performance standards. Corrective actions to achieve a negative pressure shall meet the following schedule:

(a)  If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after positive pressure was first measured. The owner or operator shall keep records according to subdivision 74:36:07:134(3);

(b)  If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator shall submit the items listed in subdivision 74:36:07:140(7) as part of the next annual report. The owner or operator shall keep records according to subdivision 74:36:07:134(4); and

(c)  If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the secretary, according to subdivision 74:36:07:140(7) and § 74:36:07:129. The owner or operator shall keep records according to subdivision 74:36:07:134(5);

(4) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature. If a well exceeds the operating parameter for temperature, action shall be initiated to correct the exceedance within 5 calendar days. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. Corrective actions to achieve the operating parameter for temperature shall meet the following schedule:

(a)  If a landfill gas temperature less than 55 degrees Celsius or 131 degrees Fahrenheit cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius or 131 degrees Fahrenheit, the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius or 131 degrees Fahrenheit was first measured. The owner or operator shall keep records according to subdivision 74:36:07:134(3);

(b)  If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius or 131 degrees Fahrenheit. The owner or operator shall submit the items listed in subdivision 74:36:07:140(7) as part of the next annual report. The owner or operator shall keep records according to subdivision 74:36:07:134(4); and

(c)  If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the secretary, according to subdivision 74:36:07:140(7) and § 74:36:07:129. The owner or operator shall keep records according to subdivision 74:36:07:134(5); and

(5)  An owner or operator seeking to demonstrate compliance with subdivision 74:36:07:107(1)(d) through the use of a collection system not conforming to the specifications provided in § 74:36:07:108 shall provide information satisfactory to the Secretary as specified in subdivision 74:36:07:126(3) demonstrating that off-site migration is being controlled.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:113.  Existing municipal solid waste landfill compliance provisions for locating wells and design components.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall place each well or design components as specified in the approved design plan as provided in § 74:36:07:126. Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1)  Five (5) years or more if active; or

(2)  Two (2) years or more if closed or at final grade.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:114.  Existing municipal solid waste landfill compliance with surface methane operational standards.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of subdivision 74:36:07:111(4) shall comply with the following procedures for demonstrating compliance with the surface methane operational standards:

(1)  After installation and startup of the gas collection system, the owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals or a site-specific established spacing for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 74:36:07:115;

(2)  The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells;

(3)  Surface emission monitoring shall be performed in accordance with 40 C.F.R. Part 60, Appendix A, Method 21, section 8.3.1 (July 1, 2018) except the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions;

(4)  Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance. As long as the following actions are taken, the exceedance is not a violation of the operational requirements of subdivision 74:36:07:111(4):

(a)  The location of each monitored exceedance shall be marked and the location and concentration recorded. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least four meters. The coordinates shall be in decimal degrees with at least five decimal places;

(b)  Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance;

(c)  If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in subdivision (e) shall be taken, and no further monitoring of that location is required until the action specified in subdivision (e) has been taken;

(d)  Any location that initially showed an exceedance but has a methane concentration less than 500 parts per million methane above background at the 10-day re-monitoring specified in subdivision (b) or (c) shall be re-monitored one month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in subdivision (c) or (e) shall be taken; and

(e)  For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device must be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Secretary for approval; and

(5)  The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:115.  Existing municipal solid waste landfill instrumentation specifications and procedures for surface emission monitoring devices.** The owner or operator of an existing municipal solid waste landfill complying with the provisions in §§ 74:36:07:114 or 74:36:07:103 shall comply with the following procedures for demonstrating compliance with the surface methane operational standards:

(1)  The portable analyzer shall meet the instrument specifications provided in 40 C.F.R. Part 60, Appendix A, Method 21, section 6 (July 1, 2018), except that methane replaces all references to VOC;

(2)  The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air;

(3)  To meet the performance evaluation requirements in 40 C.F.R. Part 60, Appendix A, Method 21, section 8.1 (July 1, 2018), the instrument evaluation procedures of section 8.1 shall be used; and

(4)  The calibration procedures provided in 40 C.F.R. Part 60, Appendix A, Method 21, sections 8 and 10 (July 1, 2018) shall be followed immediately before commencing a surface monitoring survey.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:116.  Existing municipal solid waste landfill compliance during startup, shutdown, or malfunction.** The owner or operator of an existing municipal solid waste landfill shall comply with the provisions §§ 74:36:07:112 through 74:36:07:115, at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, or malfunction, the owner or operator shall comply with the work practice standards in subdivision 74:36:07:111(5).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:117.  Existing municipal solid waste landfill active gas collection system monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to comply with an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead. The owner or operator shall:

(1)  Measure the gauge pressure in the gas collection header on a monthly basis;

(2)  Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(a)  The nitrogen level shall be determined using 40 C.F.R. Part 60, Appendix A, Method 3C (July 1, 2018), unless an alternative test method is established; and

(b)  Unless an alternative test method is established, the oxygen level shall be determined by an oxygen meter using 40 C.F.R. Part 60, Appendix A, Method 3A or 3C (all July 1, 2018) or ASTM D6522-11, if the sample location is prior to combustion, except that the following apply:

(i)  The span shall be set between 10 and 12 percent oxygen;

(ii)  A data recorder is not required;

(iii)  Only two calibration gases are required, a zero and span;

(iv)  A calibration error check is not required; and

(v)  The allowable sample bias, zero drift, and calibration drift are ±10 percent; and

(c)  A portable gas composition analyzer may be used to monitor the oxygen levels provided the analyzer is calibrated and meets all quality assurance and quality control requirements for 40 C.F.R. Part 60, Appendix A, Method 3A (July 1, 2018) or ASTM D6522-11; and

(3)  Monitor the temperature of the landfill gas on a monthly basis. The temperature measuring device shall be calibrated annually using the procedure in 40 C.F.R. Part 60, Appendix A-1, Method 2, Section 10.3 (July 1, 2018).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:118.  Existing municipal solid waste landfill enclosed combustor monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to comply with § 74:36:07:109 using an enclosed combustor shall install, calibrate, maintain, and operate according to the manufacturer’s specifications, the following equipment:

(1)  A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts; and

(2)  A device that records flow to the control device and bypass of the control device, if applicable, at least every 15 minutes. The owner or operator shall secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure the valve is maintained in the closed position and the gas flow is not diverted through the bypass line.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:119.  Existing municipal solid waste landfill non-enclosed flare monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to comply with § 74:36:07:109 using a non-enclosed flare shall install, calibrate, maintain, and operate according to the manufacturer’s specifications, the following equipment:

(1)  A heat sensing device at the pilot light or the flame itself to indicate the continuous presence of a flame; and

(2)  A device that records flow to the flare and bypass of the flare, if applicable, at least every 15 minutes. The owner or operator shall secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure the valve is maintained in the closed position and the gas flow is not diverted through the bypass line.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:120.  Existing municipal solid waste landfill surface methane monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to demonstrate compliance with the 500 parts per million surface methane operational standard shall monitor surface concentrations of methane quarterly according to the procedures provided in § 74:36:07:114 and the instrument specifications in § 74:36:07:115. Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 parts per million or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:121.  Existing municipal solid waste landfill gas treatment system monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to demonstrate compliance with the control system requirements in § 74:36:07:109 using a landfill gas treatment system shall maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in subdivision 74:36:07:131(5) and shall calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system, if applicable. The owner or operator shall:

(1)  Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(2)  Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure the valve is maintained in the closed position and the gas flow is not diverted through the bypass line.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:122.  Existing municipal solid waste landfill alternative collection system monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to monitor alternative parameters shall provide information satisfactory to the secretary as provided in subdivision 74:36:07:126(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The secretary may specify additional appropriate monitoring procedures.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:123.  Existing municipal solid waste landfill alternative control device monitoring.** The owner or operator of an existing municipal solid waste landfill that seeks to demonstrate compliance with § 74:36:07:109 using a device other than a non-enclosed flare, an enclosed combustor, or a treatment system shall provide information satisfactory to the secretary describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The secretary shall review the information and approve it or request that additional information be submitted. The secretary may specify additional appropriate monitoring procedures.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:124.  Existing municipal solid waste landfill monitoring requirements.** The owner or operator of an existing municipal solid waste landfill shall monitor according to §§ 74:36:07:118 through 74:36:07:123 and § 74:36:07:121 at all times the existing municipal solid waste landfill is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:125.  Existing municipal solid waste landfill annual nonmethane organic compound emission rate report.** The owner or operator of an existing municipal solid waste landfill with a design capacity equal to or greater than 2.5 million megagrams by mass and 2.5 million cubic meters by volume shall submit a nonmethane organic compound emission rate report prior to but no later than 90 days after the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act, except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit an initial or subsequent nonmethane organic compound emission rate report provided the most recent nonmethane organic compound emission rate report indicated the nonmethane organic compound emissions were below 50 megagrams per year.

The nonmethane organic compound emission rate report shall be submitted annually, except as provided for in subdivision (3). The secretary may request additional information as may be necessary to verify the reported nonmethane organic compound emission rate. The nonmethane organic compound emission rate report shall:

(1)  Contain an annual or 5-year estimate of the nonmethane organic compound emission rate calculated using the formula and procedures provided in §§ 74:36:07:99 or 74:36:07:143, as applicable;

(2)  Include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions; and

(3)  If the estimated nonmethane organic compound emission rate as reported in the annual report is less than 34 megagrams per year in each of the next five consecutive years, the owner or operator may elect to submit an estimate of the nonmethane organic compound emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the five years for which an nonmethane organic compound emission rate is estimated. All data and calculations upon which this estimate is based shall be included in the nonmethane organic compound emission rate report. This estimate shall be revised at least once every five years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Secretary. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

The owner or operator is exempt from the requirements to submit a nonmethane organic compound emission rate report after installing a collection and control system that complies with §§ 74:36:07:106 and § 74:36:07:109, during such time as the collection and control system is in operation and in compliance with §§ 74:36:07:111 through § 74:36:07:116.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:126.  Existing municipal solid waste landfill collection and control system design plan submittal.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall submit a collection and control system design plan prepared and approved by a professional engineer. The collection and control system design plan shall:

(1)  The design requirements in §§ 74:36:07:106 and § 74:36:07:109;

(2)  Include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions proposed by the owner or operator;

(3)  Conform to specifications for active collection systems in § 74:36:07:108 or include a demonstration to the secretary's satisfaction of the sufficiency of the alternative provisions; and

(4)  Cover page that contains the engineer's seal to the secretary within 1 year of the first nonmethane organic compound emission rate report in which the nonmethane organic compound emission rate equals or exceeds 34 megagrams per year, except as follows;

(a)  If the owner or operator elects to recalculate the nonmethane organic compound emission rate after Tier 2 nonmethane organic compound sampling and analysis and the resulting rate is less than 34 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific nonmethane organic compound concentration, until the calculated nonmethane organic compound emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised nonmethane organic compound emission rate report, with the recalculated nonmethane organic compound emission rate based on nonmethane organic compound sampling and analysis, shall be submitted, following the procedures in § 74:36:07:138, within 180 days of the first calculated exceedance of 34 megagrams per year;

(b)  If the owner or operator elects to recalculate the nonmethane organic compound emission rate after determining a site-specific methane generation rate constant as provided in Tier 3, and the resulting nonmethane organic compound emission rate is less than 34 megagrams per year, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant shall be used in the nonmethane organic compound emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised nonmethane organic compound emission rate report based on the provisions of § 74:36:07:102 and the resulting site-specific methane generation rate constant shall be submitted to the secretary within one year of the first calculated nonmethane organic compound emission rate equaling or exceeding 34 megagrams per year;

(c)  If the owner or operator elects to demonstrate site-specific surface methane emissions are below 500 parts per million methane, the owner or operator shall submit annually a Tier 4 surface emissions report until a surface emissions readings of 500 parts per million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters at a closed landfill, then the owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The secretary may request additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report shall clearly identify the location, date and time to the nearest second, average wind speeds including wind gusts, and reading, in parts per million, of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least four meters. The coordinates shall be in decimal degrees with at least five decimal places. The Tier 4 surface emission report shall also include the results of the most recent Tier 1 and Tier 2 results in order to verify the landfill does not exceed 50 megagrams per year of nonmethane organic compounds. The annual Tier 4 surface emissions report shall be submitted as follows:

(i)  The initial Tier 4 surface emissions report shall be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 surface emissions monitoring that demonstrates site-specific surface methane emissions are below 500 parts per million methane; and

(ii)  The Tier 4 surface emissions rate report shall be submitted within 1 year of the first measured surface exceedance of 500 parts per million methane;

(d)  If the landfill is in the closed landfill subcategory, the owner or operator shall submit a collection and control system design plan to the secretary within one year of the first nonmethane organic compound emission rate report in which the nonmethane organic compound emission rate equals or exceeds 50 megagrams per year, except as follows:

(i)  If the owner or operator elects to recalculate the nonmethane organic compound emission rate after Tier 2 nonmethane organic compound sampling and analysis and the resulting rate is less than 50 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific nonmethane organic compound concentration, until the calculated nonmethane organic compound emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised nonmethane organic compound emission rate report, with the recalculated nonmethane organic compound emission rate based on nonmethane organic compound sampling and analysis, shall be submitted within 180 days of the first calculated exceedance of 50 megagrams per year;

(ii)  If the owner or operator elects to recalculate the nonmethane organic compound emission rate after determining a site-specific methane generation rate constant, as provided in Tier 3, and the resulting nonmethane organic compound emission rate is less than 50 megagrams per year, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant shall be used in the nonmethane organic compound emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised nonmethane organic compound emission rate report and the resulting site-specific methane generation rate constant must be submitted to the secretary within one year of the first calculated nonmethane organic compound emission rate equaling or exceeding 50 megagrams per year;

(iii)  The owner or operator elects to demonstrate surface emissions are low, consistent with the provisions in subdivision (4)(c) of this section; and

(iv)  The landfill has already submitted a gas collection and control system design plan consistent with the provisions of 40 C.F.R. Part 60, Subpart WWW (July 1, 2018); 40 C.F.R. Part 62, Subpart GGG (July 1, 2018); or § 74:36:07:35;

(e)  The owner or operator shall notify the secretary that the design plan is completed and submit a copy of the plan's signature page. The secretary has 90 days to decide whether the design plan should be submitted for review. If the secretary chooses to review the plan, the approval process continues as described in subdivision (4)(f) of this section. If the secretary indicates that submission is not required or does not respond within 90 days, the owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event the design plan is required to be modified to obtain approval, the owner or operator shall take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action;

(f)  Upon receipt of an initial or revised design plan, the secretary shall review the information submitted under subdivision (1) through (3) and approve it, disapprove it, or request additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be proposed. If the secretary does not approve or disapprove the design plan, or does not request additional information be submitted within 90 days of receipt, the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk; and

(g)  If the owner or operator chooses to demonstrate compliance with the emission control requirements using a treatment system, the owner or operator must prepare a site-specific treatment system monitoring plan as specified in subdivision 74:36:07:131(5)(a).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:127.  Existing municipal solid waste landfill revised plan submittal.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall submit a revised design plan to the secretary for approval:

(1)  At least 90 days before expanding operations to an area not covered by the previously approved design plan; and

(2)  Prior to installing or expanding the gas collection system in a way that is not consistent with the previously approved design plan.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:128.  Existing municipal solid waste landfill Tier 4 notification.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall provide a notification of any date upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane using Tier 4 surface emission monitoring. The landfill shall also include a description of the wind barrier to be used during the surface emission monitoring in the notification. Notification shall be postmarked not less than 30 days prior to such date. If there is a delay to the scheduled Tier 4 surface emission monitoring date due to weather conditions, including not meeting the wind requirements, the owner or operator shall notify the Secretary by email or telephone no later than 48 hours before any known delay in the original test date, and arrange an updated date with the Secretary by mutual agreement.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:129.  Existing municipal solid waste landfill corrective action and timeline notifications.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall submit the following:

(1)  For corrective action required according to subdivision 74:36:07:112(3)(c) or (4)(c) and expected to take longer than 120 days after the initial exceedance to complete, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the secretary as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius or 131 degrees Fahrenheit or above. The secretary shall approve the plan for corrective action and the corresponding timeline; and

(2)  For corrective action required according to subdivision 74:36:07:112(3)(c) or (4)(c) and is not completed within 60 days after the initial exceedance, the owner or operator shall submit a notification to the secretary as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:130.  General recordkeeping for existing municipal solid waste landfill.** Except as provided in subdivision 74:36:07:126(2), the owner or operator of an existing municipal solid waste landfill subject to the provisions of § 74:36:07:98 shall keep for at least five years, readily accessible, on-site records of the design capacity report, the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats are acceptable.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:131.  Recordkeeping for existing municipal solid waste landfill -- Permormance tests and compliance determinations.** Except as provided in subdivision 74:36:07:126(2), the owner or operator of a control system at an existing municipal solid waste landfill shall maintain the control device vendor specifications and the following records, readily accessible, for the life of the control system equipment as measured during the initial performance test or compliance determination. The following records of subsequent tests or monitoring shall be maintained for a minimum of five years:

(1)  Where an owner or operator seeks to demonstrate compliance with § 74:36:07:106:

(a)  The maximum expected gas generation flow rate as calculated in subdivision 74:36:07:112(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the secretary; and

(b)  The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in subdivision 74:36:07:131(1)(a);

(2)  Where an owner or operator seeks to demonstrate compliance with § 74:36:07:109 through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(a)  The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test; and

(b)  The percent reduction of nonmethane organic compounds achieved by the control device;

(3)  Where an owner or operator seeks to demonstrate compliance with § 74:36:07:107 through use of a boiler or process heater of any size, a description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance test;

(4)  Where an owner or operator seeks to demonstrate compliance with subdivision 74:36:07:109(1) through use of a non-enclosed flare, the flare type, all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test; and continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame or the flare flame is absent; and

(5)  Where an owner or operator seeks to demonstrate compliance with subdivision 74:36:07:107(4) through use of a landfill gas treatment system:

(a)  Records of the flow of landfill gas to, and bypass of, the treatment system; and

(b)  Develop and maintain a site-specific treatment monitoring plan, to include:

(i)  Monitoring records of parameters identified in the treatment system monitoring plan and ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each intended end use of the treated landfill gas;

(ii)  Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas;

(iii)  Documentation of the monitoring methods and ranges, along with justification for their use;

(iv)  Identify who is responsible, by job title, for data collection;

(v)  Processes and methods used to collect the necessary data; and

(vi)  Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:132.  Recordkeeping for existing municipal solid waste landfill -- Control systems and exceedances.** Except as provided in subdivision 74:36:07:126(2), the owner or operator of a control system at an existing municipal solid waste landfill shall keep for five years, readily accessible continuous records of the equipment operating parameters specified to be monitored in §§ 74:36:07:117 through 74:36:07:124, and records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The following records meet this requirement:

(1)  The following constitute exceedances that must be recorded:

(a)  For enclosed combustors, except for boilers and process heaters with design heat input capacity of 44 megawatts, 150 million British thermal unit per hour, or greater, all 3-hour periods of operation during which the average temperature was more than 28 degrees Celsius or 82 degrees Fahrenheit below the average combustion temperature during the most recent performance test at which compliance with § 74:36:07:109 was determined; and

(b)  For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone;

(2)  The indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines;

(3)  If a boiler or process heater with a design heat input capacity of 44 megawatts or greater is used to comply with § 74:36:07:109, keep records of all periods of operation of the boiler or process heater;

(4)  If using a non-enclosed flare, keep continuous records of the flame or flare pilot flame monitoring, and records of all periods of operation in which the flame or flare pilot flame is absent; and

(5)  If complying with § 74:36:07:98 using an active collection system, keep records of periods when the collection system or control device is not operating.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:133.  Recordkeeping for existing municipal solid waste landfill -- Collection system.** Except as provided in subdivision 74:36:07:126(2), the owner or operator that meets the requirements of § 74:36:07:105 must keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label on each collector that matches the labeling on the plot map. In addition, the owner or operator shall also maintain the following:

(1)  Each owner or operator must keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors; and

(2)  Each owner or operator must keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as well as any nonproductive areas excluded from collection.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:134.  Additional collection system recordkeeping for existing municipal solid waste landfill.** Except as provided in subdivision 74:36:07:126(2), each owner or operator that meets the requirements of § 74:36:07:105 must keep for at least five years up-to-date, readily accessible records of the following:

(1)  All collection and control system exceedances of the operational standards in § 74:36:07:111, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance;

(2)  Records of each wellhead temperature monitoring value of 55 degrees Celsius, 131 degrees Fahrenheit, or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above five percent;

(3)  For any root cause analysis for which corrective actions are required in subdivision 74:36:07:112(3) or (4), or §60.36f(a)(3) or (5), keep a record of the root cause analysis conducted, including a description of any recommended corrective action taken, and any date the corrective action was completed;

(4)  For any root cause analysis for which corrective actions are required in subdivision 74:36:07:112(3)(b) or (4)(b), keep a record of the root cause analysis conducted, the corrective action analysis, any date for corrective action already completed following the positive pressure reading or high temperature reading, and, for any action not already completed, a schedule for implementation, including proposed commencement and completion date; and

(5)  For any root cause analysis for which corrective actions are required in subdivision 74:36:07:112(3)(c) or (4)(c), keep a record of the root cause analysis conducted, the corrective action analysis, any date for corrective action already completed following the positive pressure reading or high temperature reading, for any action not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:135.  Recordkeeping for existing municipal solid waste landfill -- Converting design capacity.** The owner or operator who converts design capacity from volume to mass or mass to volume to demonstrate landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters must keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats are acceptable.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:136.  Recordkeeping for existing municipal solid waste landfill -- Surface methane.** The owner or operator seeking to demonstrate site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures must keep for at least five years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to 40 C.F.R., Part 60, Appendix A, Method 21, sections 8 and 10 (July 1, 2018), including all of the following items:

(1)  The following calibration records:

(a)  Date of calibration and initials of operator performing the calibration;

(b)  Calibration gas cylinder identification, certification date, and certified concentration;

(c)  Any instrument scale used;

(d)  A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value; and

(e)  If an owner or operator makes their own calibration gas, a description of the procedure used;

(2)  Digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration;

(3)  Timestamp of each surface scan reading. The timestamp should be detailed to the nearest second and based on when the sample collection begins. A log for the length of time each sample was taken using a stopwatch. The time each sample is take means the time the probe was held over the area;

(4)  Location of each surface scan reading. The owner or operator must determine the coordinates using an instrument with an accuracy of at least four meters. Coordinates must be in decimal degrees with at least five decimal places;

(5)  Monitored methane concentration, in parts per million, of each reading;

(6)  Background methane concentration, in parts per million, after each instrument calibration test;

(7)  Adjusted methane concentration using most recent calibration, in parts per million;

(8)  For readings taken at each surface penetration, the unique identification location label matching the label specified in § 74:36:07:133; and

(9)  Records of the operating hours of the gas collection system for each destruction device.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:137.  Recordkeepoing for existing municipal solid waste landfill -- Control system monitor.** Except as provided in subdivision 74:36:07:126(2), the owner or operator shall keep for at least five years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 74:36:07:117. Any records required to be maintained and submitted electronically via the EPA's Central Data Exchange may be maintained in electronic format. If the owner or operator is reporting leachate or other liquids addition, keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:138.  Existing municipal solid waste landfill submit reports electronically.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall submit reports electronically according to the following:

(1)  For data collected using test methods supported by the EPA's Electronic Reporting Tool as listed on the EPA's Electronic Reporting Tool Web site (*https://www3.epa.gov/ttn/chief/ert/ert\_info.html*) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface. Compliance and Emissions Data Reporting Interface can be accessed through the EPA's Central Data Exchange (*https://cdx.epa.gov/*). Performance test data shall be submitted in a file format generated through the use of the EPA's Electronic Reporting Tool or an alternative file format consistent with the extensible markup language schema listed on the EPA's Electronic Reporting Tool Web site, once the extensible markup language schema is available. If the owner or operator claim that some of the performance test information being submitted is confidential business information, the owner or operator shall submit a complete file generated through the use of the EPA's Electronic Reporting Tool or an alternate electronic file consistent with the extensible markup language schema listed on the EPA's Electronic Reporting Tool Web site, including information claimed to be confidential business information, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic media shall be clearly marked as confidential business information and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same Electronic Reporting Tool or alternate file with the confidential business information omitted shall be submitted to the EPA via the EPA's Central Data Exchange;

(2)  For data collected using test methods not supported by the EPA's Electronic Reporting Tool as listed on the EPA's Electronic Reporting Tool Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Secretary; and

(3)  The owner or operator required to submit reports shall submit reports to the EPA via the Compliance and Emissions Data Reporting Interface. Compliance and Emissions Data Reporting Interface can be accessed through the EPA's Central Data Exchange. The owner or operator shall use the appropriate electronic report in Compliance and Emissions Data Reporting Interface or an alternate electronic file format consistent with the extensible markup language schema listed on the Compliance and Emissions Data Reporting Interface Web site (*https://www3.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in Compliance and Emissions Data Reporting Interface at the time the report is due, the owner or operator shall submit the report to the Secretary. Once the form has been available in Compliance and Emissions Data Reporting Interface for 90 calendar days, the owner or operator shall begin submitting all subsequent reports via Compliance and Emissions Data Reporting Interface. The reports shall be submitted by the specified deadlines regardless of the method in which the reports are submitted.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:139.  Report for existing municipal solid waste landfill -- Initial performance test.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 and seeking to comply with § 74:36:07:109 shall submit the initial performance test report required under 40 C.F.R. § 60.8 (July 1, 2018), except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit an initial performance test report if the owner or operator already submitted the initial performance test report on or before July 17, 2014. To fulfill the closed landfill subcategory, the closed landfill shall submit a notification that includes information describing the change, present and proposed emission control systems, and production capacity of the landfill before and after the change. Once a notification of modification has been filed and additional solid waste is placed in the landfill, the landfill is no longer closed. The initial performance test report shall contain the following:

(1)  A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2)  The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

(3)  The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4)  The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

(5)  The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6)  The provisions for the control of off-site migration.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:140.  Existing municipal solid waste landfill annual report.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 and using an active collection system shall submit an annual report to the Secretary. The initial annual report shall be submitted within 180 days of installation and startup of the collection and control system, except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit an initial annual report if the owner or operator already submitted the initial annual report on or before July 17, 2014. The initial annual report shall include the initial performance test report required under 40 C.F.R. § 60.8 (July 1, 2018), as applicable, unless the results of the performance test has been submitted to the EPA via the EPA's Central Data Exchange. In the initial annual report, any process unit tested, any pollutant tested and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's Central Data Exchange. The initial performance test report shall be submitted, following the procedure specified in § 74:36:07:138, no later than the date the initial annual report is submitted. The annual report shall contain the following:

(1)  Value and length of time for exceedance of applicable parameters monitored under subdivision 74:36:07:117(1), §§ 74:36:07:118 through 74:36:07:123, and § 74:36:07:121;

(2)  Description and duration of all periods when the gas stream was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under §§ 74:36:07:117 through 74:36:07:124;

(3)  Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating;

(4)  All periods when the collection system was not operating;

(5)  The location of each exceedance of the 500 parts per million methane concentration and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least four meters. The coordinates shall be in decimal degrees with at least five decimal places;

(6)  The date of installation and the location of each well or collection system expansion added pursuant to subdivision 74:36:07:112(3) and (4), § 74:36:07:113, and subdivision 74:36:07:114(4); and

(7)  For any corrective action analysis for which corrective actions are required and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a description of any recommended corrective action, the date for any corrective action already completed following the positive pressure reading, and, for any action not already completed, a schedule for implementation, including proposed commencement and completion dates.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:141.  Existing municipal solid waste landfill annual liquids report.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 and has employed leachate recirculation or added liquids within the last 10 years shall submit an annual liquids report to the Secretary that includes the following information:

(1)  Volume of leachate recirculated, in gallons per year, and if the reported volume is based on records or engineering estimates;

(2)  Total volume of all other liquids added, in gallons per year, and if the reported volume is based on records or engineering estimates;

(3)  Surface area, in acres, over which the leachate is recirculated or otherwise applied;

(4)  Surface area, in acres, over which any other liquids are applied;

(5)  The total waste disposed, in megagrams, in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available or engineering estimates and the reported basis of the engineering estimates;

(6)  The annual waste acceptance rates, in megagrams per year, in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available or engineering estimates;

(7)  The initial liquids report shall contain items in subdivisions (1) through (6), per year for the most recent 365 days as well as for each of the previous 10 years to the extent historical data are available in on-site records. The initial liquids report shall be submitted no later than:

(a)  365 days after the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before the effective date of EPA’s approval of the state's § 111(d) plan required in the Clean Air Act; or

(b)  365 days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after the effective date of EPA’s approval of the state's § 111(d) plan required in the Clean Air Act;

(8)  Subsequent annual liquids reports shall contain items in subdivisions (1) through (6) for the 365-day period following the 365-day period included in the previous annual liquidsort, and the report shall be submitted no later than 365 days after the date the previous report was submitted;

(9)  The owner or operator in the closed landfill subcategory are exempt from reporting requirements contained in subdivisions (1) through (7); and

(10)  The owner or operator may cease annual reporting of items in subdivisions (1) through (6), once the owner or operator has submitted a closure report.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:142.  Existing municipal solid waste landfill closure report.** The owner or operator shall submit a closure report for an existing municipal solid waste landfill to the secretary within 30 days of ceasing waste acceptance. The secretary may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 C.F.R. § 258.60 (July 1, 2018). If a closure report has been submitted to the secretary, no additional wastes may be placed into the landfill without filing a notification of modification as described under 40 C.F.R. § 60.7(a)(4) (July 1, 2018).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:143.  Cap, remove, or decommission collection and control system for existing municipal solid waste landfills.** The owner or operator shall calculate the nonmethane organic compound emission rate for purposes of determining when the collection and control system can be capped, removed, or decommissioned using the following equation:

MNMOC=1.89×10-3QLFGCNMOC, where

MNMOC = Mass emission rate of nonmethane organic compounds, in megagrams per year;

QLFG = Flow rate of landfill gas, in cubic meters per minute; and

CNMOC = Nonmethane organic compound concentration, in parts per million by volume as hexane.

(1)  The flow rate of landfill gas shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of 40 C.F.R. Part 60, Appendix A, Method 2E, section 10 (July 1, 2018);

(2)  The nonmethane organic compound concentration shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in 40 C.F.R. Part 60, Appendix A, Method 25 or 25C (July 1, 2018). The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The owner or operator shall divide the nonmethane organic compound concentration from Method 25 or Method 25C by six to convert from nonmethane organic compound concentration as carbon to nonmethane organic compound concentration as hexane; and

(3)  The owner or operator may use another method to determine landfill gas flow rate and nonmethane organic compound concentration if the method has been approved by the secretary. Within 60 days after the date of calculating the nonmethane organic compound emission rate for purposes of determining when the system can be capped or removed, the owner or operator shall submit the results according to § 74:36:07:138.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:144.  Removal criteria for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 may cap, remove, or decommission the collection and control system if the following criteria are met:

(1)  The landfill is a closed landfill and a closure report for an existing municipal solid waste landfill has been submitted to the secretary;

(2)  The collection and control system has been in operation a minimum of 15 years or the owner or operator demonstrates the collection and control system will be unable to operate for 15 years due to declining gas flow;

(3)  Following the procedures specified in § 74:36:07:143, the calculated nonmethane organic compound emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart and no more than 180 days apart; and

(4)  For a closed landfill subcategory, following the procedures specified in § 74:36:07:143, the calculated nonmethane organic compound emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart and no more than 180 days apart.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:145.  Report for existing municipal solid waste landfill -- equipment removal.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:105 shall submit an equipment removal report to the secretary 30 days prior to removal or cessation of operation of the control equipment, except when the existing municipal solid waste landfill is in the closed landfill subcategory. An existing municipal solid waste landfill that is in the closed landfill subcategory is not required to submit an equipment removal report if the owner or operator already submitted the equipment removal report on or before July 17, 2014. The equipment removal report shall contain the following:

(1)  A copy of the closure report; and

(2)  A copy of the initial performance test report demonstrating that the 15-year minimum control period has expired, unless the initial performance test report has been submitted to the EPA via the EPA's Central Data Exchange, or information that demonstrates that the collection and control system will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, any process unit tested, any pollutant tested, and the date that such performance test was conducted may be submitted in lieu of the initial performance test report if the report has been previously submitted to the EPA via the EPA's Central Data Exchange; and

(3)  Dated copies of three successive nonmethane organic compound emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of nonmethane organic compounds per year unless the nonmethane organic compound emission rate reports have been submitted to the EPA via the EPA's Central Data Exchange. If the nonmethane organic compound emission rate reports have been previously submitted to the EPA's Central Data Exchange, a statement that the nonmethane organic compound emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's Central Data Exchange may be submitted in the equipment removal report in lieu of the nonmethane organic compound emission rate reports; or

(4)  For the closed landfill subcategory, dated copies of three successive nonmethane organic compound emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of nonmethane organic compounds per year unless the nonmethane organic compound emission rate reports have been submitted to the EPA via the EPA's Central Data Exchange. If the nonmethane organic compound emission rate reports have been previously submitted to the EPA's Central Data Exchange, a statement that the nonmethane organic compound emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's Central Data Exchange may be submitted in the equipment removal report in lieu of the nonmethane organic compound emission rate reports.

The secretary may request additional information as may be necessary to verify that all of the conditions for removal in § 74:36:07:144 have been met.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:146.  Standards of performance for new municipal solid waste landfills.** The standards of performance for municipal solid waste landfills that commenced construction, reconstruction, or modification after July 17, 2014, are those in 40 C.F.R. § 60 Subpart XXX (July 1, 2018). Physical or operational changes made to existing municipal solid waste landfills solely to comply with §§ 74:36:07:94 through 74:36:07:145, 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:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:07:147.  Standards of performance for crude oil and natural gas facilities.** The standards of performance for crude oil and natural gas facilities are those in 40 C.F.R. § 60, Subpart OOOOa (July 1, 2018).

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**CHAPTER 74:36:08**

**NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

Section

74:36:08:00 Administrator defined.

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74:36:08:02 Emission standards for asbestos air pollutants.

74:36:08:02.01 Emission standards for equipment leaks (fugitive emission sources) of benzene.

74:36:08:02.02 Emission standards for benzene emissions from benzene storage vessels.

74:36:08:02.03 Emission standards for benzene emissions from benzene transfer operations.

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74:36:08:03 General provisions -- National emission standards for hazardous air pollutants for source categories.

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74:36:08:04 National perchloroethylene air emission standards for dry cleaning facilities.

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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.

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74:36:08:08 National emission standards for organic hazardous air pollutants for certain processes subject to negotiated regulations for equipment leaks.

74:36:08:09 National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks.

74:36:08:10 National emission standards for ethylene oxide emissions from sterilization facilities.

74:36:08:11 National emission standards for industrial process cooling towers.

74:36:08:12 National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations).

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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.

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74:36:08:39 National emission standards for stationary combustion turbines.

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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.

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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.

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74:36:08:50 National emission standards for petroleum refineries.

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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 -- HC1 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.

**74:36:08:00.  Administrator defined.** For the purposes of this chapter, "administrator" means the secretary, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of EPA and the secretary.

**Source:** 19 SDR 157, effective April 22, 1993; transferred from § 74:36:08:01, 21 SDR 119, effective January 5, 1995.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-19.

**74:36:08:01.  General provisions -- National emission standards for hazardous air pollutants.** The general provisions for the national emission standards for hazardous air pollutants are those in 40 C.F.R. § 61, Subpart A (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 including bulk gasoline terminals and pipeline breakout stations) are those in 40 C.F.R. § 63, Subpart R (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). The national emission standards for tanks -- level 2 are those in 40 C.F.R. § 63, Subpart WW (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). The national emission standards for equipment leaks -- control level 2 are those in 40 C.F.R. § 63, Subpart UU (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 JJJJ (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 JJJJJ (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 PPPPP (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 EEEEEE (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 FFFFFF (July 1, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 WWWWW (July 1, 2018). A source that operates a unit subject to Subpart WWWWW 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 WWWWW. Exempted sources must still meet the applicable requirements in Subpart WWWWW.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 YYYYY (July 1, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**74:36:08:105.  National emission standards for iron and steel foundry area sources.** The national emission standards for iron and steel foundry area sources are those in 40 C.F.R. § 63, Subpart ZZZZZ (July 1, 2018). A source that operates a unit subject to Subpart ZZZZZ 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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 WWWWWW. Exempted sources must still meet the applicable requirements in Subpart WWWWWW.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 JJJJJJ (July 1, 2018). A source that operates a unit subject to Subpart JJJJJJ 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 JJJJJJ. Exempted sources must still meet the applicable requirements in Subpart JJJJJJ.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 CCCCCCC (July 1, 2018). A source that operates a unit subject to Subpart CCCCCCC 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 CCCCCCC. Exempted sources must still meet the applicable requirements in Subpart CCCCCCC.

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018). 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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, 2018).

**Source:** 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**CHAPTER 74:36:09**

**PREVENTION OF SIGNIFICANT DETERIORATION**

Section

74:36:09:01 Applicability.

74:36:09:01.01 Prevention of significant deterioration permit required.

74:36:09:02 Prevention of significant deterioration.

74:36:09:03 Public participation.

**74:36:09:01.  Applicability.** This chapter applies to all areas of the state which are designated attainment or unclassifiable pursuant to § 107(d)(1)(A)(ii) and (iii) of the Clean Air Act.

**Source:** 19 SDR 157, effective April 22, 1993; 33 SDR 43, effective September 18, 2006.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**74:36:09:01.01.  Prevention of significant deterioration permit required.** New major stationary sources or major modifications to existing major stationary sources that locate in an attainment or unclassified area must obtain a prevention of significant deterioration permit prior to beginning actual construction.

**Source:** 30 SDR 26, effective September 1, 2003; 33 SDR 43, effective September 18, 2006.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**74:36:09:02.  Prevention of significant deterioration.** For the purposes of this chapter, the state's definitions and requirements for the prevention of significant deterioration are those in 40 C.F.R. § 52.21 (July 1, 2018), except for 40 C.F.R. § 52.21(a)(1), (a)(2)(iv)(e), (b)(2)(iii)(h), (b)(3)(iii)(b), (b)(32), (b)(42), (b)(49)(v), (b)(55), (b)(56), (b)(57), (b)(58), (f), (k)(2), (q), (s), (t), (u), (x), (y), (z), and (cc) (July 1, 2018) with the following differences:

(1)  For the purposes of this section, all terms defined in this section have the meaning defined in 40 C.F.R. § 52.21, except for the term "administrator" which means the secretary with the following exceptions:

(a)  In 40 C.F.R. §§ 52.21(b)(3)(iii) and 52.21(b)(37)(iii), the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(b)  In 40 C.F.R. §§ 52.21(w)(2) through 52.21(w)(4), the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(c)  In 40 C.F.R. §§ 52.21(b)(17); 52.21(b)(37)(i); 52.21(b)(43); 52.21(b)(48)(ii)(c); 52.21(b)(50)(i); 52.21(g)(1) through 52.21(g)(6); 52.21(l)(2); and 52.21(p)(2) the term "administrator" means the administrator of EPA;

(2)  For the purposes of this section, the term "Act" means the Clean Air Act;

(3)  For the purposes of this section, in 40 C.F.R. § 52.21(c), the Class I areas in South Dakota are Wind Cave National Park and the Badlands National Park;

(4)  For the purposes of this section, 40 C.F.R. § 52.21(b)(2)(iii)(a) is incorporated by reference excluding the second sentence which states, "Routine maintenance, repair and replacement shall include, but not be limited to, any activity(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) is incorporated by reference as amended and published in 81 Fed. Reg. 78048 (November 7, 2016);

(7)  For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(i) is incorporated by reference excluding the phrase, "through (v)";

(8)  For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(ii), the term "(b)(49)(iii) through (v)" means "(b)(49)(iii) through (iv)";

(9)  For the purposes of this section, 40 C.F.R. § 52.21 (b)(49)(iii) is incorporated by reference excluding the phrase, "through (v)"; and

(10)  For the purposes of this section, 40 C.F.R. § 52.21(b)(49)(iv)(b), the term "also will have an emissions increase of a regulated NSR pollutant" means "also will have a major modification of a regulated NSR pollutant that is not GHGs".

The secretary shall transmit to the administrator of the EPA a copy of each permit application subject to this section and shall notify the administrator of the EPA of each significant action the secretary takes on the application.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 33 SDR 43, effective September 18, 2006; 33 SDR 217, effective June 13, 2007; 36 SDR 207, effective June 28, 2010; 37 SDR 182, effective April 20, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**74:36:09:03.  Public participation.** For the purposes of this chapter, the state's public participation procedures are those in 40 C.F.R. § 51.166(q) (July 1, 2018), excluding the phrase "The plan shall provide that..." with the following differences:

(1)  For the purposes of this section, in 40 C.F.R. § 52.166(q) the phrase "reviewing authority" means the secretary;

(2)  For the purposes of this section, in 40 C.F.R. § 51.166(q)(1) the phrase "specified time period" means 60 days;

(3)  For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(iv), the term "administrator" means the administrator of EPA;

(4)  For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(iii), the phrase "Notify the public" shall consist of a public notice once in a legal newspaper in the county where the proposed source would be constructed. The public notice shall include a statement that a person may submit comments or contest the draft permit within 30 days after the publication of the notice. The statement shall also describe the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09;

(5)  For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(v), a public hearing is required if a person contests the draft permit or contests the secretary's final determination and requests a hearing in accordance with article 74:09; and

(6)  For the purposes of this section, in 40 C.F.R. § 51.166(q)(2)(viii), if a request for a contested case hearing is not submitted during the public notice period, the secretary shall make a final determination within 30 days of the end of the public comment period on the draft permit. The secretary shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final determination. The notice shall include reference to the procedures for contesting the final determination and requesting a hearing in accordance with article 74:09 within 30 days of receiving the secretary's final determination. If no person comments on a draft permit, requests changes, or contests the draft permit during the public notice period, the draft permit automatically becomes the secretary's final determination and is issued at the end of the public notice period.

**Source:** 33 SDR 43, effective September 18, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**CHAPTER 74:36:10**

**NEW SOURCE REVIEW**

Section

74:36:10:01 Applicability.

74:36:10:02 Definitions.

74:36:10:03 Repealed.

74:36:10:03.01 New source review preconstruction permit required.

74:36:10:04 Repealed.

74:36:10:05 New source review preconstruction permit.

74:36:10:06 Causing or contributing to a violation of any national ambient air quality standard.

74:36:10:07 Determining credit for emission offsets.

74:36:10:08 Projected actual emissions.

74:36:10:09 Repealed.

74:36:10:10 Repealed

**74:36:10:01.  Applicability.** This chapter applies to areas of the state which are designated as nonattainment pursuant to § 107 of the Clean Air Act for any pollutant regulated under the Clean Air Act.

**Source:** 19 SDR 157, effective April 22, 1993.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:10:02.  Definitions.** For the purposes of this chapter, the definitions for new source review are those in 40 C.F.R. § 51.165(a)(1), except for the second sentence of 40 C.F.R. § 51.165(a)(1)(v)(C)(1), and 40 C.F.R. § 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(xliii), (a)(1)(xliv), (a)(1)(xlv), and (a)(1)(xlvi) (July 1, 2018).

For the purposes of this chapter, the term, Act, means the Clean Air Act.

For the purposes of this section, the term, reviewing authority, means the secretary.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:10:03.  Net emissions increase defined.** Repealed.

**Source:** 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:06.01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 30 SDR 26, effective September 1, 2003.

**74:36:10:03.01.  New source review preconstruction permit required.** New major stationary sources or major modifications to existing major sources must obtain a preconstruction permit before beginning actual construction if they are located in the following areas:

(1)  An attainment or unclassified area if the source would cause or contribute to a violation of any national ambient air quality standard; or

(2)  An area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment.

Except as provided by a plant-wide applicability limit, a proposed project is considered a major modification to an existing major source if the proposed project meets the criteria in 40 C.F.R. § 51.165(a)(2)(ii)(A) through (F) (July 1, 2018).

**Source:** 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-6, 34A-1-21.

**Note:** The procedural requirements for obtaining a preconstruction permit under the new source review program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 through 74:36:05:20.01.

**74:36:10:04.  Criteria for creditability of increase or decrease in actual emissions.** Repealed.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 30 SDR 26, effective September 1, 2003.

**74:36:10:05.  New source review preconstruction permit.** A new source review preconstruction permit must satisfy the following criteria before beginning actual construction:

(1)  All requirements for new source performance standards in chapter 74:36:07 that apply to the facility;

(2)  Compliance with the lowest achievable emission rate;

(3)  Certification of compliance that all other major sources, major modifications, 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, 2018).

Approval to construct does not relieve an owner or operator of the responsibility to comply fully with applicable provisions of this article or the Clean Air Act and any other requirements under local, state, or federal law.

Submission of preconstruction monitored or projected ambient air quality data, or both, from the proposed source must accompany the permit application. In addition, air quality dispersion modeling and meteorological data for the prescribed area may be required by the department. Costs of these requirements must be absorbed by the proposed source.

**Source:** 7 SDR 4, effective July 27, 1980; transferred from § 44:10:01:16, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:16, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-22.

**74:36:10:06.  Causing or contributing to a violation of any national ambient air quality standard.** This section applies to any major stationary source or major modification to an existing major source that is located in an attainment or unclassifiable area that may cause or contribute to violation of a national ambient air quality standard. A major stationary source or major modification to an existing major source is considered to cause or contribute to a violation of a national ambient air quality standard if the source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

# POLLUTANT AND SIGNIFICANT LEVELS

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  |  | **Averaging time (hours)** | | |
|  | **Annual** | **24** | **8** | **3** | **1** |
|  |  |  |  |  |  |
| (1) SO2: | 1.0 ug/m3 | 5 ug/m3 | - | 25 ug/m3 | - |
| (2) PM10: | 1.0 ug/m3 | 5 ug/m3 | - | - | - |
| (3) NO2: | 1.0 ug/m3 | - | - | - | - |
| (4) CO | - | - | 0.5 mg/m3 | - | 2 mg/m3 |

The owner or operator of a new major stationary source or major modification to an existing major source may reduce the impact of its emissions on air quality by obtaining emission offsets to compensate for its adverse ambient impact where the new major source or major modification to an existing major source would otherwise cause or contribute to a violation of the national ambient air quality standard. The procedures for determining credit for emission offsets are those in § 74:36:10:07.

**Source:** 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:16:02, 19 SDR 157, effective April 22, 1993; 30 SDR 26, effective September 1, 2003; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:10:07.  Determining credit for emission offsets.** The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emission of sources located within a designated nonattainment area; or if there is no applicable emission limit.

In determining credit for emission offsets the following criteria shall be met:

(1)  All offsets must be for the same regulated NSR pollutant, result in a net positive air quality benefit in the affected area, and be approved by the department before issuance of the permit, even though they need not be in effect until the source commences operation. The offset ratio of total actual emissions reductions to the emissions increase shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the offset requirements in 40 C.F.R. § 51.165(a)(9)(ii) through 51.165(a)(9)(iv) (July 1, 2018);

(2)  External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;

(3)  The permissible location of offsetting emissions shall be conducted in accordance with 40 C.F.R., Part 51, Appendix S, section IV.D (July 1, 2018);

(4)  For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If the existing source agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if permit conditions specify an alternative control measure that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date;

(5)  Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier. Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

(6)  Except as set forth in 40 C.F.R. § 51.165(a)(3)(ii)(D) (July 1, 2018), emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity;

(7)  Credit for emissions reduction may be claimed to the extent that the department has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

(8)  If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit; and

(9)  All emission reductions claimed as offset credit must be federally enforceable.

**Source:** 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:01:15 and 44:10:01:17, effective July 1, 1981; 8 SDR 71, effective December 21, 1981; 12 SDR 183, effective May 21, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:01:15, 74:26:01:16.01, and 74:26:01:17, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21, 34A-1-22.

**74:36:10:08.  Projected actual emissions.** Any owner or operator who proposes a project for existing emissions units at a major stationary source that is not considered a major modification based on projected actual emissions but may result in a significant emission increase shall comply with the requirements in 40 C.F.R. § 51.165(a)(6)(i) through (vi) (July 1, 2018). This section does not apply to a source with a plant-wide applicability limit.

The owner or operator shall make the information required to be documented in 40 C.F.R. § 51.165(a)(6)(i) through (vi) (July 1, 2018) available for review upon a request for inspection by the secretary or the general public pursuant to the requirements contained in 40 C.F.R. § 70.4(b)(3)(viii) (July 1, 2018).

**Source:** 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:10:09.  Clean unit test for emission units subject to lowest achievable emission rate.** Repealed.

**Source:** 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; repealed, 39 SDR 219, effective June 25, 2013.

**74:36:10:10.  Clean unit test for emission units comparable to lowest achievable emission rate.** Repealed.

**Source:** 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 36 SDR 207, effective June 28, 2010; repealed, 39 SDR 219, effective June 25, 2013.

**CHAPTER 74:36:11**

**PERFORMANCE TESTING**

Section

74:36:11:01 Stack performance testing or other testing methods.

74:36:11:02 Secretary may require performance tests.

74:36:11:03 Notice to department of performance test.

74:36:11:04 Testing new fuels or raw materials.

**74:36:11:01.  Stack performance testing or other testing methods.** All stack performance tests or other test methods must be made in accordance with the applicable method specified in 40 C.F.R. § 60.17; Part 60, Appendix A; § 63.14; Part 63, Appendix A; and Part 51, Appendix M (all July 1, 2018).

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:05:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:05:01, effective July 1, 1981; 10 SDR 68, effective January 5, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 72, effective November 24, 1987; 16 SDR 88, effective November 14, 1989; 17 SDR 170, effective May 13, 1991; transferred from §§ 74:26:05:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 23 SDR 106, effective December 29, 1996; 26 SDR 168, effective June 27, 2000; 30 SDR 26, effective September 1, 2003; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:11:02.  Secretary may require performance tests.** The secretary may conduct or require a performance test of emissions, including stack sampling, for air pollutants from any source to determine compliance with regulated pollutant emission standards. Upon the request of the secretary, the owner or operator of the source to be tested must provide necessary ports in stacks or ducts and any other safe and applicable sampling and testing facilities necessary for determination of the emissions of air pollutants. The results of the required performance test must be submitted to the department within 60 days after the completion of the performance test or as designated by the department.

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:05:02, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:05:02, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:05:02, 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:11:03.  Notice to department of performance test.** The owner or operator of an affected facility shall notify the department at least 10 days before the start of a performance test to arrange for an agreeable test date when a department representative may observe the test.

**Source:** 19 SDR 157, effective April 22, 1993; 23 SDR 106, effective December 29, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:11:04.  Testing new fuels or raw materials.** The owner or operator of a permitted source may request permission to test a new fuel or raw material to determine if it is compatible with existing equipment and to determine air emission rates before requesting a permit amendment or modification. A complete request shall consist of:

(1)  A written proposal that describes the new fuel or raw material;

(2)  An estimate of the type and amount of regulated air pollutant emissions that will result from the change; and

(3)  The schedule for conducting the test and the duration of the test. In most cases the owner or operator will be allowed to test for a maximum of one week. A request for a test period longer than one week will need additional justification. A test period shall not exceed 180 days.

Within 45 days after receipt of a complete proposal to conduct a test, the department shall notify the owner or operator in writing as to whether or not the department approves the test. If approved, the department's written response shall specify the schedule for conducting the test and outline the test requirements. The requirements may include performance testing, visible emission evaluation, fuel analysis, dispersion modeling, and monitoring of raw material or fuel rates.

If the department determines that the change will increase an emission of a regulated air pollutant or result in the emission of an additional regulated air pollutant, the department shall give public notice of the proposed test for 30 days. The department shall consider all comments received during the 30-day public comment period before making a final decision on the test.

The department will not approve a test if the test would cause or contribute to a violation of a national ambient air quality standard.

**Source:** 23 SDR 106, effective December 29, 1996; 25 SDR 123, effective April 4, 1999.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-12, 34A-1-21.

**CHAPTER 74:36:12**

**CONTROL OF VISIBLE EMISSIONS**

Section

74:36:12:01 Restrictions on visible emissions.

74:36:12:02 Exceptions to restrictions.

74:36:12:03 Exceptions granted to alfalfa palletizes or dehydrators.

**74:36:12:01.** **Restrictions on visible emissions.** The owner or operator of a source may not discharge into the ambient air from a single unit of emissions an air pollutant of a density equal to or greater than that designated as 20 percent opacity, as established by the Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018).

**Source:** SL 1975, ch 16, § 1; transferred from § 34:10:03:01, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:03:01, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:03:01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:12:02.  Exceptions to restrictions.** The provisions of § 74:36:12:01 do not apply in the following circumstances:

(1)  If the presence of uncombined water is the only reason for failure to meet the requirements of § 74:36:12:01;

(2)  If smoke is emitted for the purpose of training or research and is approved by the department; and

(3)  For brief periods during soot blowing, start-up, shut-down, and malfunctions.

**Source:** SL 1975, ch 16, § 1; transferred from § 34:10:03:03, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:03:03, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:03:03, 19 SDR 157, effective April 22, 1993; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:12:03.  Exceptions granted to alfalfa palletizes or dehydrators.** The owner or operator of a facility that pelletizes or dehydrates alfalfa, or that does both, may discharge into the ambient air an air pollutant of a density no greater than 30 percent opacity, as established by the Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018).

**Source:** 8 SDR 133, effective April 18, 1982; 11 SDR 151, effective May 12, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:03:05, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**CHAPTER 74:36:13**

**CONTINUOUS EMISSION MONITORING SYSTEMS**

Section

74:36:13:01 Secretary may require continuous emission monitoring systems (CEMS).

74:36:13:02 Minimum performance specifications for all continuous emission monitoring systems.

74:36:13:03 Reporting requirements.

74:36:13:04 Notice to department of exceedance.

74:36:13:05 Compliance determined by data from continuous emission monitor.

74:36:13:06 Compliance certification.

74:36:13:07 Credible evidence.

74:36:13:08 Compliance assurance monitoring.

**74:36:13:01.  Secretary may require continuous emission monitoring systems (CEMS).** The secretary may require major stationary air pollution sources to install, calibrate, operate, and maintain equipment approved by the department for the continuous monitoring and recording of emission data to determine compliance with a regulated air pollutant standard or where there is reason to believe there is a violation.

**Source:** 19 SDR 157, effective April 22, 1993.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:02.  Minimum performance specifications for all continuous emission monitoring systems.** Minimum performance specifications for all continuous emission monitoring systems are those contained in 40 C.F.R. Part 60, Appendix B and 40 C.F.R. § 60.13 (July 1, 2018).

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:03.  Reporting requirements.** Owners or operators of those sources required to install continuous emission monitoring systems shall observe the reporting requirements contained in 40 C.F.R. § 60.7 (July 1, 2018). All records must be made available to the department on request.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:04.  Notice to department of exceedance.** Any emissions that exceed the standards listed in 40 C.F.R. Part 60 (July 1, 2018) or this article that are detected through continuous emission monitoring systems must be reported to the department within the time constraints as determined by the secretary in the permit to operate.

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:05.  Compliance determined by data from continuous emission monitor.** The emissions data from a continuous emission monitor on a unit shall be used to monitor compliance. The compliance requirements for the continuous emission monitor data shall be placed in the conditions of the permit to operate.

**Source:** 19 SDR 157, effective April 22, 1993.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:06.  Compliance certification.** Notwithstanding any other provision in any plan approved by the administrator, for the purpose of submission of compliance certifications an owner or operator may use monitoring as required under 40 C.F.R. § 70.6(a)(3) (July 1, 2018) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

**Source:** 21 SDR 119, effective January 5, 1995; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:07.  Credible evidence.** Notwithstanding any other provision, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of a plan. Credible evidence is as follows:

(1)  Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(a)  A monitoring method approved for the source pursuant to 40 C.F.R. § 70.6(a)(3) (July 1, 2018) and incorporated in a federally enforceable operating permit;

(b)  Compliance methods specified in the applicable plan; and

(2)  The following testing, monitoring, or information gathering methods are presumptively credible testing, monitoring, or information-gathering methods;

(a)  Any federally enforceable monitoring or testing methods, including those in 40 C.F.R. Parts 51, 60, 61, and 75 (July 1, 2018);

(b)  Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any method in subdivision (1) or (2)(a).

**Source:** 21 SDR 119, effective January 5, 1995; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**74:36:13:08.  Compliance assurance monitoring.** The owner or operator of a unit that is subject to 40 C.F.R. § 64.2 (July 1, 2018), must comply with 40 C.F.R. §§ 64.1 and 64.3 to 64.10, inclusive, (July 1, 2018).

**Source:** 25 SDR 123, effective April 4, 1999; 26 SDR 168, effective June 27, 2000; 31 SDR 101, effective January 2, 2005; 32 SDR 209, effective June 13, 2006; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-12.

**Law Implemented:** SDCL 34A-1-12.

**CHAPTER 74:36:14**

**VARIANCES**

(Repealed. 23 SDR 106, effective December 29, 1996)

**CHAPTER 74:36:15**

**OPEN BURNING**

Section

74:36:15:01 Transferred.

74:36:15:02 and 74:36:15:03 Repealed.

**74:36:15:01.  Transferred to § 74:36:06:07.**

**74:36:15:02.  Open burning practices permissible.** Repealed.

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from §§ 34:10:04:03, 34:10:04:04, 34:10:04:06, 34:10:04:07, 34:01:04:08, 34:10:04:08.01, and 34:10:04:12, 7 SDR 4, effective July 27, 1980; transferred from §§ 44:10:04:03, 44:10:04:04, 44:10:04:06, 44:10:04:07, 44:01:04:08, 44:10:04:09, and 44:10:04:13, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from §§ 74:26:04:03, 74:26:04:04, 74:26:04:06, 74:26:04:07, 74:26:04:08, 74:26:04:09, and 74:26:04:13, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995; repealed, 23 SDR 106, effective December 29, 1996.

**74:36:15:03.  Refuse burning in rural areas -- Conditions -- Restrictions.** Repealed.

**Source:** SL 1975, ch 16, § 1; 2 SDR 40, effective December 7, 1975; transferred from § 34:10:04:09, 7 SDR 4, effective July 27, 1980; transferred from § 44:10:04:10, effective July 1, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:26:04:10, 19 SDR 157, effective April 22, 1993; repealed, 23 SDR 106, effective December 29, 1996.

**CHAPTER 74:36:16**

**ACID RAIN PROGRAM**

Section

74:36:16:01 General provisions.

74:36:16:02 Allowance system.

74:36:16:03 Reserved.

74:36:16:04 Continuous emission monitoring.

74:36:16:05 Nitrogen oxides emission reduction.

**74:36:16:01.  General provisions.** The following provisions are incorporated by reference: 40 C.F.R. §§ 72.2 through 72.85 (July 1, 2018) 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 through 72.25, 72.60 through 72.71, 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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 through 73.53 (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**74:36:16:03.  Reserved.**

**74:36:16:04.  Continuous emission monitoring.** The continuous emission monitoring requirements for the acid rain program are those in 40 C.F.R. §§ 75.1 through 75.67 (July 1, 2018) and Appendixes A through H, inclusive, to 40 C.F.R. Part 75 (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**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 through 76.16 (July 1, 2018).

**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; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-18.

**Law Implemented:** SDCL 34A-1-18.

**CHAPTER 74:36:17**

**RAPID CITY STREET SANDING AND DEICING**

Section

74:36:17:01 Applicability.

74:36:17:02 Reasonable available control technology.

74:36:17:03 Street sanding specifications.

74:36:17:04 Street sanding and deicing plan.

74:36:17:05 Street sanding and sweeping recordkeeping.

74:36:17:06 Inspection authority.

**74:36:17:01.  Applicability.** This rule applies to the application of or removal of any street sanding or deicing materials on the streets in the Rapid City zone. The Rapid City zone comprises the streets within the city limits of Rapid City bordered on the west and south by the city limits, on the north by the southern right-of-way boundary of Interstate 90, and on the east by the eastern right-of-way boundary of Highway 79.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-15, 34A-1-38.

**74:36:17:02.  Reasonable available control technology.** Any operation to which this rule applies shall provide for reasonable available control technology to prevent the entrainment or reentrainment of road dust into the ambient air. Such controls include the following practices:

(1)  For operations involving the application of street sanding material and deicing agents on paved roads:

(a)  Utilizing forecasting of weather events to determine whether to pretreat roads with deicing agent or to apply no treatment;

(b)  Monitoring street temperatures to determine if deicing agents or street sanding materials need to be applied;

(c)  Limiting the application of street sanding material to intersections, inclined and curved roads, school zones, hospital zones, emergency routes, and fire station zones to the greatest extent possible; unless icy conditions exist; and

(d)  The use of pretreatment deicing or antiskid agents in place of aggregate street sanding materials to the greatest extent possible;

(2)  For operations involving the removal of street sanding and deicing agents from paved roads:

(a)  Flushing core downtown streets with water, except where meteorological conditions endanger public safety; and

(b)  Removing street sanding material from roads when road conditions become dry, using the most efficient cleaning devices on high traffic roads.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-15, 34A-1-19, 34A-1-38.

**74:36:17:03.  Street sanding specifications.** The following are the street sanding specifications to be used in the Rapid City zone:

(1)  A durability or hardness as defined in Mohs scale of greater than 6 for 70 percent of the material applied to the streets for deicing or skid control;

(2)  No more than 3 percent of the total particle material content by weight may pass through a No. 200 sieve as described in ASTM C136-93, "Standard Test Method for Sieve Analysis of Fine and Course Aggregates," November 1993.

For street sanding material, these criteria only apply to the material before the addition of salts or chemicals. Material of a lesser hardness may be used on inclined or curved roads for safety purposes or where it can be demonstrated that a material can provide at least a 25 percent reduction in air pollutants.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-15, 34A-1-19, 34A-1-38.

**References:**

Page 49 and 50, **Physical Geology the Structure and Processes of the Earth, 1982**, B. Clark Burchfiel, et al, Charles E. Merrill Publishing Company. Copies may be obtained from the Department of Environment and Natural Resources free of charge.

**Standard Test Method for Sieve Analysis of Fine and Course Aggregates**, designation C 136-93, 4 pages, American Society for Testing and Materials, November 1993. Copies are available from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. Cost: $15.

**74:36:17:04.  Street sanding and deicing plan.** Any state, county, or municipal entity or their contractor with a street sanding or deicing operation in the Rapid City zone shall submit a plan to the department on April 15, 1996, and every three years following that date. The department shall approve or disapprove the plan within 60 days after receiving it, unless the department requests further information. The entity has 20 days to reply to a request for further information. The day the department receives the requested information initiates a new 60-day approval or disapproval period. The plan must include the following:

(1)  A description of the reasonable available control technologies in § 74:36:17:02 that the entity intends to use;

(2)  A description of how the requirements in § 74:36:17:03 will be attained;

(3)  A description of the test methods used in determining attainment with § 74:36:17:03;

(4)  An emissions inventory of the streets in the Rapid City zone;

(5)  A map identifying street cleaning areas, frequency of cleaning, priorities, and the type of street cleaning device used in each area.

If elements of the approved plan change during the three year period, the entity shall submit the modifications to the department for approval. The procedure for approval or disapproval of the modifications is the same as the procedure for the original plan.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-12, 34A-1-15, 34A-1-38.

**74:36:17:05.  Street sanding and sweeping recordkeeping.** Operators of street sanding and sweeping equipment working in the Rapid City zone shall maintain records to document the street sanding and sweeping operations. These records shall be maintained for at least two years. These records shall contain the following documentation:

(1)  Street sanding:

(a)  Date;

(b)  Sanding route and area;

(c)  Street conditions;

(d)  Type and amount of sanding material used; and

(e)  Miles driven;

(2)  Street sweeping:

(a)  Date;

(b)  Area cleaned; and

(c)  Type of vehicle used.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-12, 34A-1-15, 34A-1-38.

**74:36:17:06.  Inspection authority.** The secretary may enter the storage site of any user of street sanding material covered by this chapter for the purpose of obtaining samples of materials, inspecting records, or conducting any inspection authorized under SDCL chapter 34A-1.

**Source:** 22 SDR 104, effective February 11, 1996.

**General Authority:** SDCL 34A-1-6, 34A-1-15.

**Law Implemented:** SDCL 34A-1-6, 34A-1-13, 34A-1-15, 34A-1-38, 34A-1-41.

**CHAPTER 74:36:18**

**REGULATIONS FOR STATE FACILITIES IN THE RAPID CITY AREA**

Section

74:36:18:01 Definitions.

74:36:18:02 Applicability.

74:36:18:03 Permit required.

74:36:18:04 Time period for permits and renewals.

74:36:18:05 Required contents of a complete application for a permit.

74:36:18:06 Contents of permit.

74:36:18:07 Permit expiration.

74:36:18:08 Renewal of permit.

74:36:18:09 Reasonably available control technology required.

74:36:18:10 Visible emissions limit for construction and continuous operation activities.

74:36:18:11 Exception to visible emission limit.

74:36:18:12 Notice of operating noncompliance -- Contents.

**74:36:18:01.  Definitions.** Unless otherwise specified, the terms used in this chapter mean:

(1)  "Construction activity," any temporary activity at a state facility, which involves the removal or alteration of the natural or pre-existing cover of one acre or more of land. One acre of surface area is based on a cumulative area of anticipated disturbance to be completed for the entire project;

(2)  "Continuous operation activity," the following ongoing activities at a state facility that may cause fugitive emissions of particulate to be released into the ambient air:

(a)  Unpaved parking lots and storage lots one acre or more in size;

(b)  Paved parking lots to which deicing and traction materials are applied during adverse weather;

(c)  Storage piles and activities associated with handling of the stock pile material;

(d)  The applying of deicing and traction materials on and cleaning of streets, roads, and highways; and

(e)  Any other ongoing activity as determined by the secretary that may cause such fugitive emissions;

(3)  "Reasonably available control technology," a control technology for fugitive emissions of particulate determined on a case-by-case basis by the secretary to meet the requirements of this chapter, taking into account energy, the environment, economic impacts, and other costs;

(4)  "Rapid City air quality control zone," a 10-mile by 14-mile area within the following boundaries:

(a)  Commencing at the northwest corner of Section 15, Township 2 north, Range 6 east;

(b)  East to the northeast corner of Section 14, Township 2 north, Range 8 east;

(c)  South to the southeast corner of Section 35, Township 1 north, Range 8 east;

(d)  West to the southwest corner of Section 34, Township 1 north, Range 6 east; and

(e)  North to the point of beginning;

(5)  "State facility," any state agency, state-owned or state-leased property, or property subject to a temporary state easement in the Rapid City air quality control zone; and

(6)  "State contractor," any person under contract to provide services to a state facility including any person under contract to provide construction or continuous operation activities on state highways or the state interstate system within the Rapid city air quality control zone.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:18:02.  Applicability.** The requirements of this chapter apply to state facilities and state contractors that conduct a construction activity or continuous operation activity in the Rapid City air quality control zone.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-11, 34A-1-18, 34A-1-19, 34A-1-21, 34A-1-38.

**74:36:18:03.  Permit required.** Beginning on August 1, 2002, no state facility or state contractor may engage in any construction activity or continuous operation activity within the Rapid City air quality control zone which may cause fugitive emissions of particulate to be released into the ambient air without first obtaining a permit issued by the board or the secretary. The secretary may extend the August 1, 2002, deadline for 60 days if circumstances warrant an extension.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**Note:** The procedural requirements for obtaining a construction activity or continuous operation activity permit under this chapter will be the same as the procedural requirements for a minor source, such as a timely and complete application, completeness review, public participation, and department recommendation, as outlined in §§ 74:36:04:06 and 74:36:04:08 to 74:36:04:14, inclusive.

**74:36:18:04.  Time period for permits and renewals.** A construction activity or continuous operation activity permit is issued for a period up to five years and all subsequent permits are for periods of five years.

**Source:** 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:18:05.  Required contents of a complete application for a permit.** An application for a construction activity and continuous operation activity permit shall contain the following information to be considered complete:

(1)  General company information, including the company name and address, the owner's name and agent, and the plant site manager or contact;

(2)  Legal description and location of the construction or continuous operation activity, including a site map;

(3)  Description of the proposed construction or continuous operation activity, including nature and description of equipment used;

(4)  Description of the reasonably available control technology used to control the fugitive emissions; and

(5)  For construction activities, the proposed date for commencement and termination of the construction activity.

**Source:** 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:18:06.  Contents of permit.** The construction activity and continuous operation activity permit shall include the following:

(1)  The signature of either the secretary or the chairman;

(2)  The name of the person, company, political subdivision, agency, or institution granted a permit;

(3)  The type of operation;

(4)  The mailing address;

(5)  The date the permit was granted and on which it will expire;

(6)  A permit number;

(7)  The name of a designated person or officer responsible for the permitted activity;

(8)  A statement granting a permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the Act;

(9)  Emission limits and standards necessary to assure compliance with applicable requirements of the Clean Air Act;

(10)  Record keeping and reporting requirements;

(11)  A severability clause to ensure the continued validity of the various permit requirements if any portion of the permit are challenged; and

(12)  Provisions stating the following:

(a)  The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action, permit termination, revocation or modification, or for denial of a permit renewal application;

(b)  The permit may be modified, revoked, or terminated for cause;

(c)  The permit does not convey any property rights of any sort or any exclusive privilege; and

(d)  The permittee shall provide any information requested in writing by the secretary to determine whether cause exists for modifying, revoking, or terminating the permit or to determine compliance.

**Source:** 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:18:07.  Permit expiration.** Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted to the secretary.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:18:08.  Renewal of permit.** Permits being renewed are subject to the same procedural requirements in §§ 74:36:04:06 and 74:36:04:08 to 74:36:04:14, inclusive, as the original permit issuance.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:18:09.  Reasonably available control technology required.** The owner or operator of a state facility or state contractor shall install and/or implement reasonably available control technology to prevent fugitive emissions of particulate from exceeding the visible emission limit specified in § 74:36:18:10.

**Source:** 28 SDR 178, effective July 1, 2002.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 1-26-20, 34A-1-53.

**74:36:18:10.  Visible emission limit for construction and continuous operation activities.** The owner or operator of a state facility or state contractor may not discharge into the ambient air from a fugitive source an air pollutant of a density equal to or greater than that designated as 20 percent opacity for a series of two minute averages with a minimum of a total of six minutes of readings. The Environmental Protection Agency's Method 9 in 40 C.F.R. Part 60, Appendix A (July 1, 2018) shall be used to determine the opacity.

**Source:** 28 SDR 178, effective July 1, 2002; 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-47, 34A-1-49.

**74:36:18:11.  Exception to visible emission limit.** The provisions of § 74:36:18:10 do not apply if all three of the following meteorological conditions exist:

(1)  Five consecutive days of 0.02 inches or less of precipitation each day excluding dry snow;

(2)  Forecasted peak wind gusts greater than 40 miles per hour; and

(3)  Forecasted average hourly wind speed greater than 20 miles per hour.

**Source:** 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-19.

**Law Implemented:** SDCL 34A-1-12, 34A-1-19.

**74:36:18:12.  Notice of operating noncompliance -- Contents.** If the secretary determines that the operation of a source is not in compliance with this article, the Clean Air Act, or permit conditions, the secretary may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based.

**Source:** 28 SDR 178, effective July 1, 2002; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 1-26-27, 34A-1-21.

**CHAPTER 74:36:19**

**MERCURY BUDGET TRADING PROGRAM**

(Repealed. 36 SDR 207, effective June 28, 2010)

**CHAPTER 74:36:20**

**CONSTRUCTION PERMITS FOR NEW SOURCES OR MODIFICATIONS**

Section

74:36:20:01 Applicability.

74:36:20:02 Construction permit required.

74:36:20:02.01 Initiating construction prior to permit issuance.

74:36:20:03 Construction permit exemption.

74:36:20:04 Emission unit exemptions.

74:36:20:05 Standard for issuance of construction permit.

74:36:20:05.01 Procedures for an insignificant increase in allowable emissions.

74:36:20:06 Timely and complete application for a construction permit required.

74:36:20:07 Required contents of complete application for a construction permit.

74:36:20:08 Applicant required to supplement or correct application.

74:36:20:09 Permit application -- Completeness review.

74:36:20:10 Time period for department's recommendation.

74:36:20:11 Public participation in permitting process.

74:36:20:12 Public review of department's draft permit.

74:36:20:13 Final permit decision -- Notice to interested persons.

74:36:20:14 Right to petition for contested case hearing.

74:36:20:15 Contents of construction permit.

74:36:20:16 Administrative permit amendment.

74:36:20:17 Procedures for administrative permit amendments.

74:36:20:18 Reopening construction permit for cause.

74:36:20:19 Procedures to reopen construction permit.

74:36:20:20 Construction permit does not exempt from other requirements.

74:36:20:21 Expiration of a construction permit.

74:36:20:22 Notice of constructing or operating noncompliance -- Contents.

74:36:20:23 Petition for contested case or alleged violation.

74:36:20:24 Circumvention of emissions not allowed.

**74:36:20:01.  Applicability.** The requirements of this chapter apply to the construction of all new sources or modifications to existing sources.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:02.  Construction permit required.** A person may not construct, install, modify, or operate any source or unit likely to cause the emission of air pollutants into the ambient air or any equipment that prevents or controls the emission of air pollutants into the ambient air until a construction permit has been issued by the board or the secretary, except as specified in § 74:36:20:02.01.

**Source:** 36 SDR 207, effective June 28, 2010; 37 SDR 182, effective April 20, 2011; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:02.01.  Initiating construction prior to permit issuance.** The owner or operator of a new source or modification to an existing source may only install concrete foundations, below-ground plumbing, ductwork, associated infrastructure and excavation work, or any combination of these activities prior to issuance of the construction permit by the department if the owner or operator meets the following requirements:

(1)  The owner or operator has submitted a complete application for a construction permit to the department in accordance with § 74:36:20:06 and received a completeness determination from the department in accordance with § 74:36:20:09;

(2)  The owner or operator has submitted a notification to the department of its intentions to initiate construction prior to issuance of the construction permit five working days before initiating construction;

(3)  The new source or modification to an existing source is not subject to chapter 74:36:09 or 74:36:10. The provisions in chapter 74:36:09 or 74:36:10 remain applicable until the new source or modification to an existing source legally obtains a construction permit with federally enforceable conditions which limit the sources potential to emit below the applicable thresholds in chapter 74:36:09 or 74:36:10;

(4)  The new source or modification to an existing source is not subject to § 74:36:08:03.01. The provisions in § 74:36:08:03.01 remain applicable until the new source or modification to an existing source legally obtains a construction permit with federally enforceable conditions which limit the sources potential to emit below the applicable thresholds in § 74:36:08:03.01;

(5)  The owner or operator must assume any liability for construction conducted on a source before the permit is issued;

(6)  The owner or operator must cease construction if the department's evaluation demonstrates the construction of the new source or modification to the existing source will interfere with the attainment or maintenance of a national ambient air quality standard or increment.

**Source:** 37 SDR 182, effective April 20, 2011; 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:03.  Construction permit exemption.** The following new sources or modifications to an existing source are exempt from obtaining a construction permit:

(1)  A new source or modification to an existing source meeting the requirements of chapter 74:36:09;

(2)  A new source or modification to an existing source meeting the requirements of chapter 74:36:10;

(3)  A new source or modification to an existing source authorized under a general permit; or

(4)  A source that meets the exemption requirements of §§ 74:36:04:02.01 and 74:36:05:04.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:04.  Emission unit exemptions.** The following emission units are exempt from inclusion in a construction permit unless the source has requested federally enforceable permit conditions related to the emission unit to avoid needing a Part 70 operating permit, PSD preconstruction permit, or NSR preconstruction permit or the emission unit is applicable to a standard in chapter 74:36:07 or 74:36:08:

(1)  One or more incinerators of less than 100 pounds per hour combined burning capacity that combust municipal or household waste;

(2)  A mobile internal combustion engine, including those in autos, trucks, tractors, airplanes, locomotives, and boats;

(3)  Laboratory equipment used exclusively for chemical or physical analysis;

(4)  A unit that has a heat input capability of not more than 3,500,000 Btus per hour, except for units fueled with wood or coal;

(5)  An air conditioning or ventilating system not designed to remove air pollutants from equipment;

(6)  Routine housekeeping or plant upkeep activities such as painting buildings, retarring roofs, or paving parking lots;

(7)  A unit that has the potential to emit two tons or less per year of any criteria pollutant before the application of control equipment. However, the criteria pollutant emissions from the unit must be included in determining whether the source is required to obtain a construction permit; and

(8)  A unit that has the potential to emit two tons or less per year of any hazardous air pollutant before the application of control equipment. However, the hazardous air pollutant emissions from the unit must be included in determining whether the source is required to obtain a construction permit.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:05.  Standard for issuance of construction permit.** A construction permit for a new source or modification to an existing source may be issued only if it has been shown that the operation of the new source or modification to an existing source will not prevent or interfere with the attainment or maintenance of an applicable national ambient air quality standard. If air pollution dispersion modeling is required, the modeling shall be performed in accordance with the air quality modeling guidance in 40 C.F.R. Part 51, Appendix W (July 1, 2018) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2018). Each new source or modification to an existing source must comply with emission limits and other requirements of the act and the Clean Air Act. The construction permit must include reasonable conditions, including adherence to plans and specifications, to ensure compliance with the act, the Clean Air Act, and any other conditions justified under SDCL 34A-1-19.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6, 34A-1-19, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:05.01.  Procedures for an insignificant increase in allowable emissions.** The department shall take the following final action on the proposed insignificant increase in allowable emissions within 90 days after receipt of a complete application for an insignificant increase in allowable emissions:

(1)  Issue the construction permit as proposed;

(2)  Deny the application for a construction permit; or

(3)  Determine the application should be processed as a construction permit following the procedural requirements in §§ 74:36:20:06 to 74:36:20:10, inclusive.

The secretary shall issue the construction permit for an insignificant increase in allowable emissions without the procedural requirements applicable to obtaining a construction permit.

**Source:** 42 SDR 52, effective October 13, 2015.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:06.  Timely and complete application for a construction permit required.** A person who constructs a new source or modification to an existing source required to have a construction permit shall submit a complete application to the department at least 180 days before the estimated date of commencing construction of the new source or modification to an existing source. An application is complete if it meets the requirements in § 74:36:20:07.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:07.  Required contents of complete application for a construction permit.** An application for a construction permit for a new source or modification must include the following information to be considered a complete application:

(1)  The following general company information:

(a)  The company name and address or the plant name and address if different from the company name;

(b)  The owner's name and agent; and

(c)  The plant site manager or contact;

(2)  A description of the plant and its processes and products;

(3)  The following information on emissions:

(a)  Identification and description of all emission units;

(b)  Fuels, fuel use, raw materials, and production rates;

(c)  Identification and description of air pollution control equipment;

(d)  Limitations on source operation affecting emissions or any work practice standards, if applicable, for all regulated air pollutants;

(e)  Other information required by any applicable requirements, including information related to stack height limits, such as the location of emission units, flow rates, building dimensions, and stack parameters, including height, diameter, and plume temperature, for all pollutants regulated at the source;

(4)  If available, a copy of any prepared plans and the specifications of any equipment or other facilities that may affect the source, including pollution control devices;

(5)  A signed and notarized certification of applicant form;

(6)  The results of any air dispersion modeling required by the department;

(7)  The results of any stack performance testing required by the department; and

(8)  Any other information requested by the department that is relevant to determining compliance with the act or the Clean Air Act.

The application must be signed by the responsible official or designated representative.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-12, 34A-1-21.

**74:36:20:08.  Applicant required to supplement or correct application.** If the applicant is aware that the application is incomplete or that any relevant facts or information contained in an application are incorrect, the applicant shall submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable after the application is filed but before the release of the draft permit.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:09.  Permit application -- Completeness review.** The department shall conduct a completeness review of each permit application received, as follows:

(1)  Within 30 days after submission of an application for a construction permit, the department shall notify the applicant in writing whether or not the application is complete or incomplete. If the department does not notify the applicant that the application is incomplete within 30 days after receipt of the application, the application is considered complete. The department may at any time during the processing of the application request, in writing, additional information necessary to evaluate or take final action on the application;

(2)  If the application is incomplete or additional information is necessary to evaluate the application, the department shall identify the items required to complete the application. The applicant has 20 working days after receipt of an incomplete notification or request for additional information to submit the information, unless an extension beyond the 20 working days is approved by the department; and

(3)  The department shall determine the adequacy of the applicant's response to each incomplete item within 15 days after receipt of the response and shall notify the applicant in writing if the application is or is not complete.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:10.  Time period for department's recommendation.** The department shall recommend issuance or denial of a construction permit within 180 days after the submission of a complete application and all other additional information necessary for the department to make an informed decision. A recommendation to issue a permit shall include a draft permit with appropriate conditions to ensure compliance with the act or the Clean Air Act. Failure of the department to act on an application entitles the applicant to petition for and obtain a contested case review of the application without waiting for a department recommendation. The petition must conform to the requirements of article 74:09.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:11.  Public participation in permitting process.** The department shall mail a copy of the draft permit to the applicant. The department shall publish a public notice of the draft permit once in a legal newspaper in the county where the source is located. The notice must include a brief statement describing the source and where it is located; the department's recommendation and the reasons for it; the activity or activities involved in the permit action; a statement that a person may submit comments or contest the draft permit within 30 days after the publication of the notice; a description of the procedures a person must follow to contest the draft permit and request a hearing in accordance with article 74:09; and a statement describing where copies of the draft permit or other information may be obtained. The department shall provide to the interested parties a 30-day notice of any hearing to contest a draft permit.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 1-26-27, 34A-1-21.

**74:36:20:12.  Public review of department's draft permit.** During the public comment period, any interested person may submit written comments on the draft permit or request a contested case hearing. All comments shall be considered in making a final permit decision on the draft permit as provided in § 74:36:20:13. A request for a contested case hearing must be in writing and prepared and filed in accordance with article 74:09. The department is not required to accept recommendations or comments that are not based on applicable requirements of this article or the requirements of the Clean Air Act.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:13.  Final permit decision -- Notice to interested persons.** The department shall make its final permit decision within 30 days of the end of the public comment period on a draft permit. The department shall notify, in writing, the applicant and each person that submitted written comments or requested notice of the final permit decision. The notice shall include reference to the procedures for contesting the final permit decision and requesting a hearing in accordance with article 74:09. For the purpose of this section, the final permit decision means proposing a permit or denying a permit.

The final permit shall be issued within 30 days of notifying the applicant and each person that submitted written comments or requested notification of the final permit decision except under the following conditions:

(1)  A later effective date is specified in the final permit decision;

(2)  A contested case hearing is requested; or

(3)  No comments or request for changes in the draft permit were received during the public comment period on the draft permit. In this case, the draft permit automatically becomes the final permit decision and the final permit is issued at the end of the public comment period.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 1-26-27, 1-26-29, 34A-1-21.

**74:36:20:14.  Right to petition for contested case hearing.** The applicant or interested person may petition the board and obtain a contested case hearing to dispute the department's draft permit. Any other person may petition to intervene and request a hearing if the person has an interest affected by the department's draft permit. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after publication of the notice required by § 74:36:20:11.

The applicant or an interested person that comments on the draft permit may petition the board for and obtain a contested case hearing to dispute the department's final permit decision. Such petitions must comply with the provisions of article 74:09 and be received by the department within 30 days after receiving the department's final permit decision.

If the draft permit or the final permit decision is contested, the department shall present the draft permit or final permit decision to the board for action in accordance with article 74:09.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 1-26-27, 1-26-29, 34A-1-21.

**74:36:20:15.  Contents of construction permit.** A construction permit shall include the following:

(1)  The signature of either the secretary or the chairman;

(2)  The name of the person, company, political subdivision, agency, or institution granted a permit;

(3)  The type of operation;

(4)  The facility and mailing address;

(5)  The date the construction permit was granted;

(6)  A number for administrative reference;

(7)  The timeline for submitting a timely and complete application for a minor source operating permit or Part 70 source operating permit;

(8)  A statement granting a construction permit by the board or secretary and any conditions that the board or secretary may impose to ensure compliance with the act and the Clean Air Act;

(9)  Emission limits and standards, including operational requirements and limits for all regulated emission units, necessary to ensure compliance with applicable requirements of the act and the Clean Air Act;

(10)  Monitoring, recordkeeping, and reporting requirements necessary to determine compliance with the construction permit;

(11)  A severability clause to ensure the continued validity of the various permit requirements if any portions of the permit are challenged; and

(12)  Provisions stating the following:

(a)  The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action;

(b)  The construction permit does not convey any property rights of any sort or any exclusive privilege; and

(c)  The permittee shall provide any information, including records, requested in writing by the department to determine compliance.

**Source:** 36 SDR 207, effective June 28, 2010; 39 SDR 219, effective June 25, 2013.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:16.  Administrative permit amendment.** An administrative permit amendment may be issued for a revision to an operating permit meeting the requirements of § 74:36:01:03. An application for an administrative permit amendment shall contain a description of the change and documentation supporting the applicant's claim that the revision qualifies as an administrative permit amendment.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:17.  Procedures for administrative permit amendments.** The source may implement a proposed revision that is considered an administrative permit amendment immediately upon notifying the department. The department shall determine whether an administrative permit amendment is applicable to the proposed revision within 15 days of receiving a request for a permit revision. The department shall issue administrative permit amendments without the procedural requirements applicable to obtaining a construction permit.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:18.  Reopening construction permit for cause.** The department may reopen a construction permit for further review if the department determines that the permit contains a material mistake in establishing the emissions standards or limits or other requirements of the construction permit or the department determines that the construction permit must be revised to ensure compliance with the applicable requirements of this article and the Clean Air Act.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:19.  Procedures to reopen construction permit.** The department shall notify the source at least 30 days before reopening a construction permit. The department may reopen a permit in a shorter time in an emergency. The procedures to reopen a construction permit shall follow the procedural requirements to issue a construction permit and shall affect only those parts of the permit for which cause to reopen exists.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:20.  Construction permit does not exempt from other requirements.** The issuance of a construction permit for a new source or modification to an existing source does not exempt the new source or modification to an existing source from obtaining the applicable operating permit pursuant to chapter 74:36:04 or 74:36:05 or from the obligation to comply with the applicable emission limitations or requirements of the Clean Air Act.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:21.  Expiration of a construction permit.** A construction permit expires if the construction of the new source or modification to an existing source has not commenced within 18 months after the effective date of the construction permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within ten years of the effective date. If a construction permit expires, the applicant's authority to commence construction or complete construction of the new source or modification to an existing source is terminated.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6, 34A-1-21.

**Law Implemented:** SDCL 34A-1-21.

**74:36:20:22.  Notice of constructing or operating noncompliance -- Contents.** If the department determines that the construction or operation of a source is not in compliance with this article, the Clean Air act, or permit conditions, the department may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statues, or permit conditions violated and the alleged facts upon which the determination is based. The secretary, with the concurrence of the alleged violator, may settle an issue of noncompliance by entering into a compliance agreement with the source that specifies the date for final compliance of the source and any penalties under SDCL 34A-1-39. If a compliance agreement is not negotiated, the department may petition the chairman of the board for a contested case hearing or may file a civil penalty or injunctive action in circuit court.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-20, 34A-1-53.

**74:36:20:23.  Petition for contested case on alleged violation.** In accordance with § 74:36:20:22, the department may file a petition containing the information required in article 74:09 with the chairman to request an order directing corrective action, to request that an enforcement hearing be scheduled pursuant to the provisions of chapter 74:09:01, or to request that the construction permit be suspended or revoked for noncompliance.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-47, 34A-1-49.

**74:36:20:24.  Circumvention of emissions not allowed.** A person may not install or cause the installation or use of a device or a means that conceals or dilutes an emission of air pollutants that would otherwise violate this article or the Clean Air Act. This includes operating a source, unit, or control device that emits pollutants into the ambient air from an opening other than the stack, vent, or equivalent opening from which they were designed to be emitted.

**Source:** 36 SDR 207, effective June 28, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-18.

**CHAPTER 74:36:21**

**REGIONAL HAZE PROGRAM**

Section

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**74:36:21:01.  Applicability.** The provisions of this chapter apply to the owner or operator of a new major source, modification to a major source, and a BART-eligible source. The provisions of this chapter do not apply to a major source or major modification to an existing source applicable to chapters 74:36:09 and 74:36:10.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:02.  Definitions.** As used in this chapter:

(1)  "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I federal area;

(2)  "BART" means best available retrofit technology;

(3)  "Best available retrofit technology" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility;

(4)  "BART-eligible source" means an existing stationary facility;

(5)  "Coal-fired power plant" means any person, corporation, limited liability company, association, company, partnership, political subdivision, municipality, rural electric cooperative, consumers power district, or any group or combination acting as a unit, owning or holding under lease, or otherwise real property used, or intended for use, for the conversion of coal into electric power;

(6)  "Contribute to adverse impact on visibility" means a change in visibility impairment in a mandatory Class I federal area of five-tenths deciviews or more, based on a 24-hour average, above the average natural visibility baseline;

(7)  "Major source" means as defined in § 74:36:01:08(2) and (3);

(8)  "Mandatory Class I federal area" means any area identified in 40 C.F.R. § 81, Subpart D (July 1, 2018);

(9)  "Visibility impairment" means any human-perceptible change in visibility such as light extinction, visual range, contrast, coloration, from that which would have existed under natural conditions;

(10)  "30-day rolling average" means and amount expressed as pounds per million Btus and pounds per hour averaged over 30 operating days; and

(11)  "Operating day" means a 24-hour period between midnight and the following midnight during which any fuel is combusted at any time in the period, even if fuel is not combusted during the entire 24-hour period.

**Source:** 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:03.  Existing stationary facility defined.** An existing stationary facility is any of the following stationary sources of air pollutants, including any reconstructed source that was not in operation before August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted for:

(1)  Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;

(2)  Coal cleaning plants (thermal dryers);

(3)  Kraft pulp mills;

(4)  Portland cement plants;

(5)  Primary zinc smelters;

(6)  Iron and steel mill plants;

(7)  Primary aluminum ore reduction plants;

(8)  Primary copper smelters;

(9)  Municipal incinerators capable of charging more than 250 tons of refuse per day;

(10)  Hydrofluoric, sulfuric, and nitric acid plants;

(11)  Petroleum refineries;

(12)  Lime plants;

(13)  Phosphate rock processing plants;

(14)  Coke oven batteries;

(15)  Sulfur recovery plants;

(16)  Carbon black plants (furnace process);

(17)  Primary lead smelters;

(18)  Fuel conversion plants;

(19)  Sintering plants;

(20)  Secondary metal production facilities;

(21)  Chemical process plants;

(22)  Fossil-fuel boilers of more than 250 million British thermal units per hour heat input;

(23)  Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels;

(24)  Taconite ore processing facilities;

(25)  Glass fiber processing plants; and

(26)  Charcoal production facilities.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:04.  Visibility impact analysis.** An air quality construction permit for a new major source or modification to a major source shall demonstrate to the department that the potential to emit from the new major source or modification to a major source may be issued only if it has been shown that the operation of the new major source or modification to a major source will not contribute to adverse impact on visibility in any mandatory Class I federal area. Adverse impact on visibility shall be based on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with times of visitor use of a mandatory Class I federal area and the frequency and timing of natural conditions that reduce visibility. If air pollution dispersion modeling is required, the modeling shall be performed in accordance with the air quality modeling guidance in 40 C.F.R. Part 51, Appendix W (July 1, 2018) and is not affected by stack height that exceeds good engineering practice or by any other dispersion technique as defined in 40 C.F.R. § 51.100 (July 1, 2018). A source contributes to adverse impact on visibility if the source exceeds the threshold of the 98th percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews.

**Source:** 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:05.  BART determination.** The owner or operator of a BART-eligible source that emits any air pollutant which may reasonably be anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area shall submit a BART determination. The BART determination shall follow the procedures outlined in 40 C.F.R. § 51, Subpart Y (July 1, 2018) and must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source. In this analysis, the BART determination must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonable be anticipated to result from the use of such technology. The BART determination must be submitted within nine months after being notified by the department that the existing stationary source is reasonably anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area.

**Source:** 37 SDR 111, effective December 7, 2010; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:06.  BART determination for a BART-eligible coal-fired power plant.** The owner or operator of a BART-eligible coal-fired power plant may not cause or permit emissions of the following regulated air pollutant in excess of the following amounts:

(1)  PM10 emissions in excess of 67.3 pounds per hour, which includes periods of startup and shutdown;

(2)  PM10 emissions in excess of 0.012 pounds per million Btus, which includes periods of startup and shutdown;

(3)  Sulfur dioxide emissions in excess of 505 pounds per hour, which includes periods of startup, shutdown, and malfunction;

(4)  Sulfur dioxide emissions in excess of 0.09 pounds per million Btus, which includes periods of startup, shutdown, and malfunction;

(5)  Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup, shutdown, and malfunction; and

(6)  Nitrogen oxide emissions in excess of 0.10 pounds per million Btus, which includes periods of startup, shutdown, and malfunction.

Compliance with the PM 10 emission limits shall be based on an annual stack performance test using the performance testing methods in § 74:36:11:01 and using the average of three 1-hour test runs. Compliance with the sulfur dioxide and nitrogen oxide emission limits shall be based on using continuous emission monitoring systems and a 30-day rolling average.

**Source:** 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:07.  Installation of controls based on visibility impact analysis or BART determination.** The owner or operator of a new major source, modification to a major source, or a BART-eligible source that emits any air pollutant which may reasonably be anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area shall install, operate, and maintain the controls established in a visibility impact analysis or BART determination. The owner or operator of a new major source or modification to a major source must install and operate the controls established in a visibility impact analysis at initial startup. The owner or operator of a BART-eligible source required to install BART must install, operate, and demonstrate compliance with BART as expeditiously as practicable, but no later than five years from EPA's approval of the state implementation plan for regional haze.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:08.  Operation and maintenance of controls.** The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination shall establish written procedures to ensure the control equipment is properly operated and maintained. The written procedures shall include, at a minimum, the following:

(1)  A maintenance schedule for each control device that is consistent with the manufacturer's instructions and recommendations for routine and long-term maintenance;

(2)  Procedures for the proper operation and maintenance of each control device; and

(3)  Parameters to be monitored to determine each control device is being operated properly.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:09.  Monitoring, recordkeeping, and reporting.** The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination shall conduct periodic monitoring, recordkeeping, and reporting. All sulfur dioxide and nitrogen oxides emissions from the BART-eligible source must 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, 2018), except the recordkeeping and reporting requirements for the continuous emission monitoring systems must be in accordance with 40 C.F.R. § 60.7 (July 1, 2018). Monitoring and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source must consist of at least the following:

(1)  All emissions monitoring and analysis procedures, alternative approved methods, or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;

(2)  As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;

(3)  Documentation of the following:

(a)  The date, place, and time of sampling or measurements;

(b)  The date or dates analyses were performed;

(c)  The company or entity that performed the analyses;

(d)  The analytical techniques or methods used;

(e)  The results of such analyses; and

(f)  The operating conditions as existing at the time of sampling or measurement;

(4)  Recordkeeping and reporting requirements that comply with the following:

(a)  Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and

(b)  Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions. The probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(5)  Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

**Source:** 37 SDR 111, effective December 7, 2010; 38 SDR 39, effective September 19, 2011; 39 SDR 219, effective June 25, 2013; 42 SDR 52, effective October 13, 2015; 44 SDR 43, effective September 13, 2017; 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:10.  Permit to construct.** The owner or operator subject to this chapter may be issued a permit to construct in accordance with chapter 74:36:20 if the department determines that the new major source or modification to a major source does not contribute to adverse impact on visibility at a mandatory Class I federal area.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:11.  Permit required for BART determination.** The owner or operator of a BART-eligible source shall submit an application in accordance with chapter 74:36:20 to include the controls, emission limits, monitoring, recordkeeping, and reporting requirements identified in the BART determination and approved by the department.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:12.  Federal land manager notification and review.** The department shall provide written notice to the federal land manager of a BART determination or any permit application for a new major source or modification to a major source if the emissions from which may contribute to adverse impact on visibility at a mandatory Class I federal area, except for an application submitted in accordance with chapter 74:36:09 or 74:36:10. A notification of a BART determination shall include a copy of the BART determination and must be submitted within 30 days of receipt of a complete BART determination. The department shall consider an analysis performed by the federal land manager submitted within 60 days of the federal land manager being notified of a BART determination or by the end of the public participation process, whichever is later. A permit application for a new major source or modification to a major source shall include a copy of the permit application and visibility impact analysis. The department shall consider an analysis performed by the federal land manager submitted within 30 days of the federal land manager being notified of a visibility impact analysis or by the end of the public participation process, whichever is later. The department shall follow the procedures outlined in chapter 74:36:09 or 74:36:10 for an application submitted in accordance with chapter 74:36:09 or 74:36:10.

**Source:** 37 SDR 111, effective December 7, 2010.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

**74:36:21:13.  Calculate a 30-day rolling average.** The following procedures shall be used to calculate a 30-day rolling average:

(1)  Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(2)  Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(3)  Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(4)  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;

(5)  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.

**Source:** 46 SDR 64, effective November 25, 2019.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.