

## **CHAPTER 74:36:18**

### **REGULATIONS FOR STATE FACILITIES IN THE RAPID CITY AREA**

#### Section

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**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, 2016) shall be used to determine the opacity.

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

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

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

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

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

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

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

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

**74:36:18:12. Notice of operating noncompliance -- Contents.** If the secretary determines that the operation of a source is not in compliance with this article, the Clean Air Act, or permit conditions, the secretary may issue a notice of such a finding to the permit holder or operator of the source. The notice must contain citations to the rules, statutes, or permit conditions violated and the alleged facts upon which the determination is based.

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

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

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