

§ 52.2170

40 CFR Ch. I (7-1-04 Edition)

Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart QQ—South Dakota

§ 52.2170 Identification of plan.

(a) Title of plan: “Air Pollution Control Regulations and Implementation Plan for the State of South Dakota.”

(b) The plan was officially submitted on January 27, 1972.

(c) The plan revisions listed below were submitted on the dates specified.

(1) Request for delegation of authority submitted January 27, 1972, by the Governor.

(2) Clarification of control regulations (section 1.8.4) submitted April 27, 1972, by the State Department of Health.

(3) Clarification of control regulations (section 1.8.4) submitted May 2, 1972, by the Governor.

(4) On December 4, 1975, the Governor of South Dakota submitted revisions and additions to the air pollution control regulations (Article 34:10 of the Administrative Rules of South Dakota). The submittal updated rules and regulations; review procedures for new and modified direct sources; variance and enforcement procedure revisions; episode procedure changes; and the addition of new source performance standards similar to those of EPA.

(5) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977 were submitted on January 3, 1979.

(6) A new control strategy for Brookings, South Dakota was submitted on April 16, 1979.

(7) On January 21, 1980, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR part 58, subpart C, § 58.20, and Public Notification required under section 127 of the Clean Air Act.

(8) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977, were submitted on October 16, 1980.

(9) On September 13, 1982, the Governor submitted a plan revision for a new control strategy for Brookings, South Dakota and an amendment to the opacity regulation for alfalfa pelletizers.

(10) On May 4, 1984, the Governor submitted a plan revision for lead and repealed the hydrocarbon standard.

(11) On January 28, 1988, the Governor submitted a plan revision (1) updating citations to Federal regulations in the South Dakota air pollution control regulations (Administrative Rules of South Dakota 74:26), (2) adopting new ambient air quality standards for particulates (PM₁₀), (3) revising the State administrative procedures for handling permit hearings and contested cases, and (4) correcting deficiencies in the stack height regulations.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota (ARSD) 74:26:01:12, ARSD 74:26:01:35, ARSD 74:26:01:37, ARSD 74:26:01:64, ARSD 74:26:08 through ARSD 74:26:23, inclusive, and addition of a new section, ARSD 74:26:02:35, were revised through November 24, 1987.

(12) In a letter dated August 7, 1986, the Governor submitted revisions to the South Dakota SIP adopting federal stack height regulations (Administrative Rules of South Dakota 74:26). In a letter dated August 20, 1986, the Administrator, Office of Air Quality and Solid Waste of South Dakota, submitted the stack height demonstration analysis with supplemental information submitted on December 3, 1986.

(i) Incorporation by reference. (A) Revisions to the Administrative Rules of South Dakota 74:26 effective on May 21, 1986. The changes consisted of incorporating definitions for good engineering practices and dispersion techniques into 74:26:01:12, standard for the issuance of construction permit.

(B) Stack height demonstration analysis submitted by the State with letters dated August 20, 1986 and December 3, 1986.

(13) On September 25, 1992 and February 24, 1992, the Governor of South Dakota submitted revisions to the plan for new source performance standards and asbestos.

(i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Program, Sections 74:26:08-74:26:21 and 74:26:23-74:26:25, New Source Performance Standards, effective May 13, 1991, Section 74:26:26, Standards of

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Performance for Municipal Waste Combustors, effective November 24, 1991, and Section 74:26:22, Emission Standards for Asbestos Air Pollutants, effective December 2, 1991.

(14) On September 25, 1991, the designee of the Governor of South Dakota submitted revisions to the plan for new source review, operating permits, and the PM-10 Group II requirements.

(i) Incorporation by reference

(A) Revisions to the Air Pollution Control Program, Sections 74:26:01-74:26:08, effective May 13, 1991.

(ii) Additional material

(A) Letter dated April 14, 1992, from the South Dakota Department of Environment and Natural Resources to EPA.

(15) On November 10, 1992, the Governor of South Dakota's designee submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the South Dakota State Implementation Plan as required by section 507 of the Clean Air Act. An amendment to the plan was submitted by the Governor's designee on April 1, 1994.

(i) Incorporation by reference.

(A) November 10, 1992 letter from the Governor of South Dakota's designee submitting a Small Business Assistance Program plan to EPA.

(B) April 1, 1994 letter from the Governor of South Dakota's designee submitting an amendment to the South Dakota Small Business Assistance Program plan to EPA.

(C) The State of South Dakota amended plan for the establishment and implementation of a Small Business Assistance Program, adopted January 12, 1994 by the South Dakota Department of Environment and Natural Resources.

(D) South Dakota Codified Laws 34A-1-57, effective July 1, 1992 and 34A-1-58 through 60, effective July 1, 1993, which gives the State of South Dakota the authority to establish and fund the South Dakota Small Business Assistance Program.

(16) On November 12, 1993 and March 7, 1995, the designee of the Governor of South Dakota submitted revisions to the plan, which included revised regulations for definitions, minor source

construction and federally enforceable state operating permit (FESOP) rules, source category emission limitations, sulfur dioxide rule corrections, new source performance standards (NSPS), new source review (NSR) requirements for new and modified major sources impacting nonattainment areas, and enhanced monitoring and compliance certification requirements. The State also requested that the existing State regulations approved in the South Dakota SIP be replaced with the following chapters of the recently recodified Administrative Rules of South Dakota (ARSD): 74:36:01-74:36:04, 74:36:06; 74:36:07, 74:36:10-74:36:13, and 74:36:15, as in effect on January 5, 1995.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota, Air Pollution Control Program, Chapters 74:36:01 (except 74:36:01:01(2) and (3)); 74:36:02-74:36:04, 74:36:06; 74:36:07, 74:36:10-74:36:13, and 74:36:15, effective April 22, 1993 and January 5, 1995.

(17) On May 2, 1997, the designee of the Governor of South Dakota submitted revisions to the plan. The revisions pertain to revised regulations for definitions, minor source operating permits, open burning, and performance testing. The State's SIP submittal requested that EPA replace the previous version of the ARSD approved into the SIP with the following chapters of the ARSD as in effect on December 29, 1996: 74:36:01 through 74:36:03, 74:36:04 (with the exception of section 74:36:04:03.01), 74:36:06, 74:36:07, 74:36:10-13, and 74:36:17. EPA is replacing all of the previously approved State regulations, except the NSPS rules in ARSD 74:36:07, with those regulations listed in paragraph (c)(17)(i)(A). ARSD 74:36:07, as in effect on January 5, 1995 and as approved by EPA at 40 CFR 52.2170(c)(16)(i)(A), will remain part of the SIP. [Note that EPA is not incorporating the revised ARSD 74:36:07, new ARSD 74:36:11:04, or new ARSD 74:36:17 in this action, as these chapters will be acted on separately by EPA.]

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota, Air Pollution Control Program, Chapters 74:36:01-03; 74:36:04 (except section 74:36:04:03.1);

74:36:06; 74:36:10, 74:36:11 (with the exception of ARSD 74:36:11:04), 74:36:12, and 74:36:13, effective December 29, 1996.

(18) On May 2, 1997 and on May 6, 1999, the designee of the Governor of South Dakota submitted revisions to the new source performance standards in subchapter 74:36:07 of the Administrative Rules of South Dakota (ARSD).

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota, Air Pollution Control Program, Chapter 74:36:07—New Source Performance Standards, subsections 74:36:07:01 through 74:36:07:10, 74:36:07:12 through 74:36:07:28, 74:36:07:31 through 74:36:07:33, and 74:36:07:43, effective December 29, 1996.

(B) Revisions to the Administrative Rules of South Dakota, Air Pollution Control Program, Chapter 74:36:07—New Source Performance Standards, subsections 74:36:07:06.02, 74:36:07:07.01, 74:36:07:11, and 74:36:07:43, effective April 4, 1999.

(19) On May 2, 1997 and on May 6, 1999, the designee of the Governor of South Dakota submitted provisions in Section 74:36:11:04 of the Administrative Rules of South Dakota. The provisions allow permitted sources to 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 if certain conditions are met.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota, Air Pollution Control Program, Chapter 74:36:11, Performance Testing, section 74:36:11:04, effective April 4, 1999.

(20) On January 22, 1996, the designee of the Governor of South Dakota submitted provisions in Section 74:36:17 of the Administrative rules of South Dakota. The provisions consist of street sanding requirements that apply within the city limits of Rapid City, South Dakota.

(i) Incorporation by reference.

(A) Administrative Rules of South Dakota, Air Pollution Control Program, Chapter 74:36:17.

(ii) Additional materials.

(A) Letter of March 25, 1994 from South Dakota Department of Environment and Natural Resources discussing

whether EPA should designate Rapid City as nonattainment for the PM-10 standard.

(B) Letter of July 19, 1995 from EPA Region VIII discussing with the South Dakota Department of Environment and Natural Resources the exceedances of the PM-10 standard measured in the Rapid City.

(C) Letter of November 16, 1995 from the South Dakota Department of Environment and Natural Resources describing the commitment the State of South Dakota has toward permit exceedances of the PM-10 standard in the future.

(D) Letter of January 22, 1996 from the South Dakota Department of Environment and Natural Resources transmitting Rapid City street sanding requirements.

(21) On May 6, 1999 and June 30, 2000, South Dakota submitted revisions to its Air Pollution Control Program Rules. The sections of the rule being approved replace the same numbered sections that have previously been approved into the SIP. The provisions of section 74:36:07, except 74:36:07:29 and 74:36:07:30, which have previously been incorporated by reference in paragraphs (c)(16)(i)(A) and (c)(18)(i) of this section, are being removed from the South Dakota SIP.

(i) Incorporation by reference.

(A) Sections 74:36:01:01(1) through (79), effective 4/4/1999; 74:36:01:03, effective 4/4/1999; 74:36:01:05, effective 4/4/1999; 74:36:01:07, effective 4/4/1999; 74:36:01:08, effective 4/4/1999; 74:36:01:10, effective 4/4/1999; 74:36:01:17, effective 4/4/1999; 74:36:01:20, effective 4/4/1999; 74:36:02:02, effective 6/27/2000; 74:36:02:03, effective 6/27/2000; 74:36:02:04, effective 6/27/2000; 74:36:02:05, effective 6/27/2000; 74:36:04:03, effective 4/4/1999; 74:36:04:09, effective 4/4/1999; 74:36:04:11, effective 4/4/1999; 74:36:04:12, effective 4/4/1999; 74:36:04:12.01, effective 4/4/1999; 74:36:04:13, effective 4/4/1999; 74:36:01:14, effective 4/4/1999; 74:36:04:18, effective 4/4/1999; 74:36:04:19, effective 4/4/1999; 74:36:04:20, effective 4/4/1999; 74:36:04:20.01, effective 4/4/1999; 74:36:04:20.04, effective 4/4/1999; 74:36:04:22, effective 4/4/1999; 74:36:06:02, effective 4/4/1999; 74:36:06:03, effective 4/4/1999; 74:36:06:07, effective 4/4/1999; 74:36:11:01, effective 6/27/2000; 74:36:12:01,

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effective 6/27/2000; 74:36:13:02, effective 6/27/2000; 74:36:13:03, effective 6/27/2000; 74:36:13:04, effective 6/27/2000; and 74:36:13:07, effective 6/27/2000.

(22) On June 27, 2002, the designee of the Governor of South Dakota submitted revisions to the State Implementation Plan. The June 27, 2002 submittal consists of revisions to the Administrative Rules of South Dakota. These revisions add a new chapter 74:36:18, "Regulations for State Facilities in the Rapid City Area". Chapter 74:36:18 regulates fugitive emissions of particulate matter from state facilities and state contractors that conduct a construction activity or continuous operation activity within the Rapid City air quality control zone.

(i) Incorporation by reference.

(A) Chapter 74:36:18 of the Administrative Rules of South Dakota, effective July 1, 2002.

[37 FR 15089, July 27, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 52.2170, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 69 FR 25843, May 10, 2004, in § 52.2170, paragraph (c)(23) was added, effective July 9, 2004. For the convenience of the user, the added text is set forth as follows:

§ 52.2170 Identification of plan.

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(c) * * *

(23) On September 12, 2003, the designee of the Governor of South Dakota submitted revisions to the State Implementation Plan. The September 12, 2003 submittal revises the following chapters of the Administrative Rules of South Dakota: 74:36:01, 74:36:04, 74:36:10 and 74:36:11.

(i) Incorporation by reference.

(A) Administrative Rules of South Dakota, Chapter 74:36:01, sections 74:36:01:01(77), 74:36:01:01(80), and 74:36:01:01(81); Chapter 74:36:04, sections 74:36:04:06, 74:36:04:32 and 74:36:04:33; Chapter 74:36:10, except section 74:36:10:01; and Chapter 74:36:11, section 74:36:11:01, effective September 1, 2003.

§ 52.2171 Classification of regions.

The South Dakota plan evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
Metropolitan Sioux City Interstate	III	III	III	III	III
Metropolitan Sioux Falls Interstate	II	III	III	III	III
Black Hills—Rapid City Intrastate	III	III	III	III	III
South Dakota Intrastate	III	III	III	III	III

[37 FR 10893, May 31, 1972]

§ 52.2172 Approval status.

With the exceptions set forth in this subpart, the Administrator approves South Dakota's plan as meeting the requirements of section 110 of the Clean Air Act, as amended in 1977. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D of the Clean Air Act, as amended in 1977.

[46 FR 54542, Nov. 3, 1981]

§ 52.2173 Legal authority.

(a) The requirements of § 51.230(f) of this chapter are not met since the

South Dakota Compiled Law 34-16A-21 provides that data which relates to processes or production unique to the owner or which tend to adversely affect a competitive position of the owner shall be held confidential.

(b) Delegation of authority: Pursuant to section 114 of the Act, South Dakota requested a delegation of authority to enable it to collect, correlate and release emission data to the public. The Administrator has determined that South Dakota is qualified to receive a delegation of the authority it requested. Accordingly, the Administrator delegates to South Dakota his