

ATTACHMENT 5

**ADMINISTRATIVE RULES OF SOUTH DAKOTA
CHAPTER 74:36:21**

ARTICLE 74:36

AIR POLLUTION CONTROL PROGRAM

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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 §§ 74:36:09 and 73:36:10.

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:02. Definitions. Unless otherwise specified, the terms used in this chapter mean:

(1) “Adverse impact on visibility,” visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor’s visual experience of the mandatory Class I federal area. Adverse impact on visibility shall be based on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with times of visitor use of a mandatory Class I federal area and the frequency and timing of natural conditions that reduce visibility;

(2) “BART,” best available retrofit technology;

(3) “Best available retrofit technology” an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology;

(4) “BART-eligible source,” an existing stationary facility;

(5) “Coal-fired power plant,” any person, corporation, limited liability company, association, company, partnership, political subdivision, municipality, rural electric cooperative,

consumers power district, or any group or combination acting as a unit, owning or holding under lease, or otherwise real property used, or intended for use, for the conversion of coal into electric power;

(6) “Contribute to adverse impact on visibility,” a change in visibility impairment in a mandatory Class I federal area of five-tenths deciviews or more, based on a 24-hour average, above the average natural visibility baseline. A source exceeds the threshold if the 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;

(7) “Major source,” as defined in § 74:36:01:08(2) and (3);

(8) “Mandatory Class I federal area,” any area identified in 40 C.F.R. § 81, Subpart D (July 1, 2009); and

(9) “Visibility impairment,” any human perceptible change in visibility such as light extinction, visual range, contrast, coloration, from that which would have existed under natural conditions.

Source:

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:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:04. Visibility impact analysis. The owner or operator of a 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 will not contribute to adverse impact on visibility in any mandatory Class I federal area. The demonstration shall be based on visibility models approved in 40 C.F.R. § 51, Subpart W (July 1, 2009).

Source:

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, 2009) 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 non air quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology. The BART determination shall be submitted within nine months

after being notified by the department that the existing stationary source is reasonably anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area.

Source:

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 and shutdown;

(4) Sulfur dioxide emissions in excess of 0.09 pounds per million Btus, which does not include periods of startup and shutdown;

(5) Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup and shutdown; and (6) Nitrogen oxide emission in excess of 0.10 pounds per million Btus, which does not include periods of startup and shutdown.

Compliance with the PM10 emission limits shall be based on an annual stack performance test 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:

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:

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:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:21:09. Monitoring, recordkeeping and reporting. The owner or operator required to install and operate controls established in a visibility impact analysis or BART determination shall conduct periodic monitoring, recordkeeping, and reporting. All sulfur dioxide and nitrogen oxides emissions from the BART-eligible source shall be routed to the main stack of a BART-eligible source. Monitoring of sulfur dioxide and nitrogen oxide emissions from the main stack shall be conducted using a continuous emission monitoring system which complies with the continuous emission monitoring requirements in § 74:36:13. Monitoring requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source shall be in accordance with § 74:36:05:16.01(9). Recordkeeping and reporting shall comply with the requirements in § 74:36:05:16.01(9).

Source:

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 § 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:

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 § 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:

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 §§ 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's 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 §§ 74:36:09 or 74:36:10 for an application submitted in accordance with §§ 74:36:09 or 74:36:10.

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.