

## ARTICLE 74:36

### AIR POLLUTION CONTROL PROGRAM

#### Chapter

|          |   |
|----------|---|
| 74:36:01 | Definitions.  |
| 74:36:02 | Ambient air quality.                                      |
| 74:36:03 | Air quality episodes.                                     |
| 74:36:04 | Operating permits for minor sources.                      |
| 74:36:05 | Operating permits for Part 70 sources.                    |
| 74:36:06 | Regulated air pollutant emissions.                        |
| 74:36:07 | New source performance standards.                         |
| 74:36:08 | National emission standards for hazardous air pollutants. |
| 74:36:09 | Prevention of significant deterioration.                  |
| 74:36:10 | New source review.  |
| 74:36:11 | Performance testing.                                      |
| 74:36:12 | Control of visible emissions.                             |
| 74:36:13 | Continuous emission monitoring systems.                   |
| 74:36:14 | Variances, Repealed.                                      |
| 74:36:15 | Open burning, Transferred or Repealed.                    |
| 74:36:16 | Acid rain program.  |
| 74:36:17 | Rapid City street sanding and deicing.                    |
| 74:36:18 | Regulations for state facilities in the Rapid City area.  |
| 74:36:19 | Mercury budget trading program, Repealed.                 |
| 74:36:20 | Construction permits for new sources or modifications.    |
| 74:36:21 | Regional haze program.                                    |

#### CHAPTER 74:36:21

### REGIONAL HAZE PROGRAM

#### Section

|             |   |
|-------------|---|
| 74:36:21:01 | Applicability.  |
| 74:36:21:02 | Definitions.  |
| 74:36:21:03 | Existing stationary facility defined.   |
| 74:36:21:04 | Visibility impact analysis.   |
| 74:36:21:05 | BART determination.   |
| 74:36:21:06 | BART determination for a BART-eligible coal-fired power plant.                      |
| 74:36:21:07 | Installation of controls based on visibility impact analysis or BART determination. |
| 74:36:21:08 | Operation and maintenance of controls.  |
| 74:36:21:09 | Monitoring, recordkeeping, and reporting.   |
| 74:36:21:10 | Permit to construct.  |
| 74:36:21:11 | Permit required for BART determination.   |
| 74:36:21:12 | Federal land manager notification and review.                                       |

**74:36:21:01. 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.** Unless otherwise specified, the terms used in this chapter mean:

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

(2) "BART," best available retrofit technology;

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

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

(5) "Coal-fired power plant," any person, corporation, limited liability company, association, company, partnership, political subdivision, municipality, rural electric cooperative, consumers power district, or any group or combination acting as a unit, owning or holding under lease, or otherwise real property used, or intended for use, for the conversion of coal into electric power;

(6) "Contribute to adverse impact on visibility," a change in visibility impairment in a mandatory Class I federal area of five-tenths deciviews or more, based on a 24-hour average, above the average natural visibility baseline. A source exceeds the threshold if the 98<sup>th</sup> percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

(8) "Mandatory Class I federal area," any area identified in 40 C.F.R. § 81, Subpart D (July 1, 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:** 37 SDR 111, effective December 7, 2010.

**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.** 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:** 37 SDR 111, effective December 7, 2010.

**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 nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology. The BART determination shall be submitted within nine months after being notified by the department that the existing stationary source is reasonably anticipated to contribute to adverse impact on visibility in any mandatory Class I federal area.

**Source:** 37 SDR 111, effective December 7, 2010.

**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 emissions in excess of 0.10 pounds per million Btus, which does not include periods of startup and shutdown.

Compliance with the PM 10 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:** 37 SDR 111, effective December 7, 2010.

**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 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 chapter 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:** 37 SDR 111, effective December 7, 2010.

**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.

## PART V - PROCEDURE FOR ADOPTING PERMANENT RULES

### Notice:

- Serve head of department with a copy of  
(1) admission of service (Form 1);  
(2) authorization to proceed (Form 2);  
(3) proposed rules; and  
(4) materials incorporated by reference. SDCL 1-26-4(1)
- Get written approval to proceed. SDCL 1-26-4(2)
- Service on Legislative Research Council (LRC) and Bureau of Finance and Management (BFM), publication of notice, and notice to interested persons must be done at least 20 days before the hearing. SDCL 1-26-4(2)  
1-26-4(3)
- Service on LRC (two copies) and BFM (one copy) includes: SDCL 1-26-4(2)  
(1) admission of service (Form 3 or 4 as applicable);  
(2) notice of hearing;  
(3) fiscal note;  
(4) proposed rules - double spaced;  
(5) (LRC only) copies of admission of service on department secretary and authorization to proceed (Forms 1 and 2);  
(6) (LRC only) one copy of any materials incorporated by reference. The materials will be returned after the review is complete; and  
(7) Small Business Impact Statement (Form 14)
- If rules have a negative fiscal impact on local political subdivisions, ask BFM to send a copy of its fiscal note to South Dakota Municipal League, Associated School Boards of South Dakota, and South Dakota County Commissioners Association. SDCL 1-26-4.2
- Publish notice of hearing in a manner selected to notify persons likely to be affected; minimum legal test is publication of notice in at least three newspapers of general circulation in different parts of the state. SDCL 1-26-4.1
- Send notice to interested persons. SDCL 1-26-4.1
- Comment period:**
- Accept comments from public and from LRC. SDCL 1-26-4(6)  
1-26-6.5

Hold public hearing. If a board or commission has rule-making authority, a majority of the board or commission must be present at the hearing. SDCL 1-26-4(4)

Keep comment period open for ten days following hearing; however, if agency is part-time citizen board or part-time commission, close comment period at end of hearing unless hearing is specifically continued to take additional comments. SDCL 1-26-4(6)

### **Adoption process:**

Make changes in rules after consideration of comments by public; make LRC's recommended changes; changes must be within the scope of the notice. SDCL 1-26-4(4)  
1-26-4(7)  
1-26-6.5

Have rules signed by the person or a majority of the body with the authority to adopt them (Form 11). SDCL 1-26-6(2)

Serve Rules Committee with minutes of public hearing, complete record of written comments, and final draft of rules after hearing. SDCL 1-26-4(8)  
1-26-4.3  
1-26-6(1)

Serve final draft of rules with Legislative Research Council and obtain signature of LRC approving the rules for legality and for form and style (Form 11). SDCL 1-26-6(4)  
1-26-6.5  
1-26-6.6

Appear and present rules to the Interim Rules Review Committee. SDCL 1-26-1.2  
1-26-4(8)

### **Filing with Secretary of State:**

File a copy of Form 11 and original certificate Form 13, with the Secretary of State if the agency has appeared before the Rules Committee and minutes and final rules were served on the Rules Committee and if all signatures have been obtained. No more than 75 days may elapse between when the agency's public hearing commences and the rules are filed with the Secretary of State. SDCL 1-26-4.3  
1-26-6(1)  
1-26-6(5)

### **Effective date:**

Rules are provisionally effective on the 20th day after filing with the Secretary of State. SDCL 1-26-6

Rules are finally effective on July 1 after the next legislative session. SDCL 1-26-6



## PROCEDURE FOR ADOPTING PERMANENT RULES

### Step 1

Forms 1, 2

Serve proposed rules on department secretary

Wait 15 days or get permission to continue

### Step 2

Forms 3, 4, 5, 6, 14

Serve rules, notice, fiscal notes, and impact statement on LRC and BFM

No waiting period

### Step 3

Forms 6, 7, 8, 9

Publish notice of hearing and send notice to interested persons

Wait 20 days

### Step 4

Form 10

Hold public hearing

Wait 10 days unless the entity promulgating the rules is a board or a multiperson decision maker

### Step 5

Form 11

Adopt rules

No waiting period

### Step 6

Forms 11, 12

Submit final, adopted rules to LRC for approval signature. Send final rules and minutes of hearing to Rules Committee. Appear and present rules to the Committee

### Step 7

Form 13

File rules and certificate of compliance with Secretary of State

Wait 20 days

Rules are effective

The times shown in the flow chart are the minimums established by SDCL 1-26-4 and 1-26-6. Steps 4 through 7 must be accomplished in 75 days (SDCL 1-26-4.3).

The form numbers in the chart correspond to forms on the following pages. Your agency must create all of these forms, with the exception of Form 5 (BFM 50.10), the fiscal note, which is obtained from the Bureau of Finance and Management, and Form 8, affidavit of publication, which is provided by the newspapers publishing your notice.

Keep the **originals** of all of these documents in your agency files except for Form 13, the certificate, the original of which must be filed with the Secretary of State. While it is not required by statute, the Secretary of State has requested that a copy of Form 11 be filed with the rules and the certificate (Step 7).

A more detailed explanation of this entire process is contained in the Administrative Procedures Act, SDCL chapter 1-26.

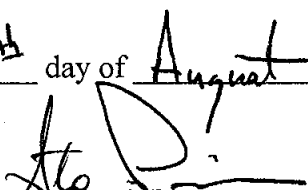
**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**ADMISSION OF SERVICE**

Personal service of

- (1) the Secretary of Department of Environment and Natural Resources' proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional haze program;
- (2) all materials incorporated by reference

is admitted at Pierre, South Dakota, this 17<sup>th</sup> day of August, 2010.

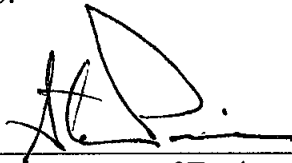
  
\_\_\_\_\_  
Secretary of Department of Environment and Natural Resources

**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**WAIVER OF WAITING PERIOD**

Pursuant to SDCL subdivision 1-26-4(2), I, Steven M. Pirner, Secretary of the Department of Environment and Natural Resources, waive the fifteen-day waiting period before proceeding with the promulgation of the Secretary of Department of Environment and Natural Resources' proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional haze program.

Dated this 17<sup>th</sup> day of August, 2010.



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Secretary of Department of Environment and Natural Resources

**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**ADMISSION OF SERVICE**

Personal service of

- (1) the Secretary of Department of Environment and Natural Resources' proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional haze program; and
- (2) the notice of hearing,
- (3) the fiscal note,
- (4) the Small Business Impact Statement, and
- (5) all materials incorporated by reference

is admitted at Pierre, South Dakota, this 18<sup>th</sup> day of Aug, 2010.

  
Kris Schneider  
Legislative Research Council

For these rules, the Agency contact person is: Rick Boddicker

Phone Number: 605-773-3151


**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**ADMISSION OF SERVICE**

Personal service of

- (1) the Secretary of Department of Environment and Natural Resources' proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional haze program; and
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- (4) the Small Business Impact Statement Form

is hereby admitted at Pierre, South Dakota, this 18<sup>th</sup> day of August, 2010.

  
Bureau of Finance and Management

For these rules, the Agency contact person is: Rick Boddicker

Phone Number: 605-773-3151

**ADMINISTRATIVE PROCEDURES ACT  
FISCAL NOTE**

|            | CODE | NAME                              |
|------------|------|-----------------------------------|
| DEPARTMENT | 20   | Environment and Natural Resources |
| DIVISION   | 2    | Environmental Services            |
| PROGRAM    |      | Air Quality                       |

PROPOSED RULE: Revisions to article 74:36 by adding chapter 74:36:21 – Regional haze program.

Hearing Date: September 15, 2010

**FISCAL IMPACT STATEMENT:**

Brief description of fiscal impact: The only entity affected by this rule immediately will be Otter Tail Power Company's Big Stone I facility. The cost to Otter Tail Power Company will be approximately \$400,000,000. Other entities such as GCC Dacotah, Hyperion Energy Center, etc, may be affected in the future. No additional staffing or resources by DENR are needed.

**FISCAL NOTE SUMMARY:**

List state agencies of local governmental subdivisions affected: None


**COST INCREASES (DECREASES)**

| State Agencies:                         | First-Year Impact | Continuous-Yearly Impact |
|---|-------------------|--------------------------|
| TOTAL                                   | \$ 0              | \$ 0                     |
| Local Subdivisions:                     |                   |                          |
| TOTAL                                   | \$ 0              | \$ 0                     |
| Small Business<br>Increases (Decreases) |                   |                          |
| TOTAL                                   | \$ 0              | \$ 0                     |

**REVENUE INCREASES (DECREASES)**

| Revenue Increases (Decreases)<br>State, Local & Small Business: |      |      |
|---|------|------|
| TOTAL   | \$ 0 | \$ 0 |

APPROVED \_\_\_\_\_

  
Signature Department Secretary

DATE 8/17/10

## SMALL BUSINESS IMPACT STATEMENT FORM

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
  - Direct impact *(please complete remainder of form)*
  - Indirect impact *(please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)*
  - No Impact *(please provide a brief explanation, sign, date, and submit form - Questions 2 through 8 do not need to be answered)*

The department reviewed the types of business the new chapter would impact. The only entity affected by this rule immediately will be Otter Tail Power Company's Big Stone I facility. The cost to Otter Tail Power Company will be approximately \$400,000,000. Other entities such as GCC Dacotah, Hyperion Energy Center, etc, may be affected in the future. Therefore, the new chapter does not impact small businesses.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:
3. What is the basis for the enactment of the rules(s)?
  - Required to meet changes in federal law
  - Required to meet changes in state law
  - Required solely due to changes in date (i.e. must be changed annually)
  - Other:
4. Why is the rule(s) needed?
5. What small businesses or types of small businesses would be subject to the rule?
6. Estimate the number of small businesses that would be subject to the rule.
  - 1-99       100-499       500-999       1,000-4,999       More than 5,000
  - Unknown - please explain \_\_\_\_\_
7. Are small businesses required to file or maintain any reports or records under this rule?
  - Yes       No
  - a. If "yes," how many reports must a small business submit to the state on an annual basis?
  - b. If "yes," how much ongoing recordkeeping within the business is necessary?
  - c. If "yes," what type of professional skills would be necessary to prepare the reports or records?
    - The average owner of a small business should be able to complete the reports and/or records with no assistance

- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other \_\_\_\_\_
- Unknown - please explain \_\_\_\_\_

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain

Yes - please explain \_\_\_\_\_

Approved by:



Secretary of the Department of Environment and Natural Resources

Date:

8/12/10



## ARTICLE 74:36

### AIR POLLUTION CONTROL PROGRAM

#### Chapter

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- 74:36:18 Regulations for state facilities in the Rapid City area.

74:36:19 Mercury budget trading program.

74:36:21 Regional haze program.

## **CHAPTER 74:36:21**

### **REGIONAL HAZE PROGRAM**

#### **Section**

74:36:21:01 Applicability.

74:36:21:02 Definitions.

74:36:21:03 Existing stationary facility defined.

74:36:21:04 Visibility impact analysis.

74:36:21:05 BART determination.

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74:36:21:12 Federal land manager notification and review.

**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,” means visibility impairment which 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” is an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which 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 which may reasonably be anticipated to result from the use of such technology.

(4) “BART-eligible source,” is 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,” is 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 when the 98<sup>th</sup> percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

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

(9) “Visibility impairment,” is any human perceptible change in visibility such as light extinction, visual range, contrast, coloration, etc. 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, which was not in operation prior to 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 which 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 does not include 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 modification required for BART determination.** The owner or operator of a BART-eligible source shall submit an application to modify its operations to include the controls, emission limits, monitoring, recordkeeping, and reporting requirements identified in the BART determination and approved by the department in accordance with § 74:36:20.

**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. 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 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.**

## ARTICLE 74:36

### AIR POLLUTION CONTROL PROGRAM

#### Chapter

- 74:36:01 Definitions.
- 74:36:02 Ambient air quality.
- 74:36:03 Air quality episodes.
- 74:36:04 Operating permits for minor sources.
- 74:36:05 Operating permits for Part 70 sources.
- 74:36:06 Regulated air pollutant emissions.
- 74:36:07 New source performance standards.
- 74:36:08 National emission standards for hazardous air pollutants.
- 74:36:09 Prevention of significant deterioration.
- 74:36:10 New source review.
- 74:36:11 Performance testing.
- 74:36:12 Control of visible emissions.
- 74:36:13 Continuous emission monitoring systems.
- 74:36:14 Variances, Repealed.
- 74:36:15 Open burning, Transferred or Repealed.
- 74:36:16 Acid rain program.
- 74:36:17 Rapid City street sanding and deicing.
- 74:36:18 Regulations for state facilities in the Rapid City area.

74:36:19 Mercury budget trading program.

74:36:21 Regional haze program.

## CHAPTER 74:36:21

### REGIONAL HAZE PROGRAM

#### Section

74:36:21:01 Applicability.

74:36:21:02 Definitions.

74:36:21:03 Existing stationary facility defined.

74:36:21:04 Visibility impact analysis.

74:36:21:05 BART determination.

74:36:21:06 BART determination for a BART-eligible coal-fired power plant.

74:36:21:07 Installation of controls based on visibility impact analysis or BART determination.

74:36:21:08 Operation and maintenance of controls.

74:36:21:09 Monitoring, recordkeeping and reporting.

74:36:21:10 Permit to construct.

74:36:21:11 Permit modification required for BART determination.

74:36:21:12 Federal land manager notification and review.

**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 98<sup>th</sup> percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

(8) "Mandatory Class I federal area," any area identified in 40 C.F.R. § 81, Subpart D (July 1, 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 does not include 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 modification required for BART determination.** The owner or operator of a BART-eligible source shall submit an application to modify its operations to include the controls, emission limits, monitoring, recordkeeping, and reporting requirements identified in the BART determination and approved by the department in accordance with § 74:36:20.

**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. 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 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:**

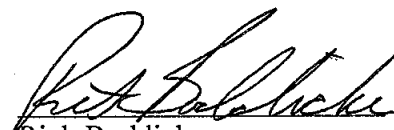
**General Authority:** SDCL 34A-1-6.

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

**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**AFFIDAVIT OF MAILING NOTICE  
TO INTERESTED PARTIES**


I, Rick Boddicker, under oath, do swear, that on August 23, 2010, I mailed a copy of the notice attached to this affidavit to the list of persons attached to this affidavit. I further swear that the attached list is a true and correct list of all persons who have requested advance notice of rule-making proceedings by the Department of Environment and Natural Resources.

  
Rick Boddicker

Subscribed and sworn to

before me this 23 day

of August, 2010.

  
Notary Public - South Dakota

(Seal)

My Commission expires  
\_\_\_\_\_, 20\_\_\_\_.

**BRENDA ANDERSON, Notary Public**  
**My Commission Expires**  
**October 26, 2010**

August 23, 2010

Dale Cockrell  
PO Box 7370  
Kalispell, MT 59904

Dear Mr. Cockrell:

The South Dakota Department of Environment and Natural Resources (DENR) is proposing revisions to the Administrative Rules of South Dakota (ARSD) Article 74:36 – Air Pollution Control Program and South Dakota’s State Implementation Plan. In the 1990 Clean Air Act Amendments, Congress strengthened and reaffirmed the national goal to address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the Regional Haze Rule on July 1, 1999. Under this rule, states must “establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions” for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days and ensure no degradation in visibility for the least impaired days. The proposed rules establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064.

Enclosed is the public notice for the public hearing that will be held by the Board of Minerals and Environment on September 15, 2010, in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, at 9:00 a.m. mountain daylight time. The purpose of the public hearing is to receive and consider testimony on the adoption of amendments to Administrative Rules of South Dakota, Article 74:36 - Air Pollution Control Program and South and South Dakota’s State Implementation Plan.

Copies of the proposed amendments may be obtained, without charge, by calling Lita Magedanz at (605) 773-3151. You can also access the rule changes through the department’s web page at <http://denr.sd.gov/des/aq/airprogr.aspx>. Feel free to call me at (605) 773-3151 with any comments, opinions, or suggestions you may have on the proposed revisions.

Sincerely,



Rick Boddicker  
Environmental Senior Scientist  
Air Quality Program

Enclosure



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PO Box 2320  
Sioux Falls SD 57101

Timothy Johns  
Board of Minerals and Environment  
203 West Main Street  
Lead SD 57754

Glenn Blumhardt  
Board of Minerals and Environment  
2014 6th Ave Box 134  
Bowdle SD 57428-0134

Keith Brokke  
Order States Paving Inc  
PO Box 2586  
Fargo ND 58108-2586

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Broin Enterprises  
PO Box 330  
Scotland SD 57059

Dennis Bucher  
Bureau of Land Management  
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Belle Fourche SD 57717-1618

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c/o Denver Federal Center  
PO Box 25546 Bldg 41 Rm 240  
Denver CO 80225-0546

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Carlson Construction  
PO Box 1832  
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PO Box 176  
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Sioux Falls SD 57118

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Cundy Asphalt Paving Construction Inc  
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Gillette WY 82717-2469

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PO Box 2340  
Rapid City SD 57709-2340

Dixie Hendricks  
Dakota Rural Action  
PO Box 549  
Brookings SD 57006

Alex Huff  
Dakota Southern Railroad  
PO Box 436  
Chamberlain SD 57325-0436

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Duinick Brothers Inc  
PO Box 208  
Prinsburg MN 56281

Larry Johnson  
Dustcoating  
4463 50th St NE  
Buffalo MN 55313-3722

John Mulloy  
Missis & Eastern Railroad  
1201 W Russell  
Sioux Falls SD 57104

William McCollam  
Ellsworth AFB  
28 CES/CEV 2013 Scott Drive  
Ellsworth AFB SD 57706

Cathy Atkins  
EPA Region VIII  
721 19th Street, 4th Floor Rm. 427  
Denver CO 80202-2500

Amy Platt 8P-AR  
EPA Region VIII  
1595 Wynkoop Street  
Denver CO 80202

Rich Schruger  
Fisher Industries  
PO Box 1120  
Spearfish SD 57783-7120

Scott LaFond  
Fisher Industries  
PO Box 1034  
Dickinson ND 58602

Gene Nelson  
GCC Dacotah Inc  
PO Box 360  
Rapid City SD 57709-0360

Terese Hruska  
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Lead SD 57754-9704

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Kathy Glines  
Harding County Auditor  
PO Box 26  
Buffalo SD 57720-0026

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Higman Sand & Gravel Inc  
PO Box 109  
Akron IA 51001

Dave Ohlen  
Hills Materials Company  
PO Box 2320  
Rapid City SD 57709

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Hodgman W & Sons Inc  
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Mankato MN 56002-3069

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Homestake Mining Company  
11457 Bobtail Gulch Street  
Central City SD 57754

Philip Mitzel  
ub City  
PO Box 1089  
Aberdeen SD 57402-1089

Andy Detwiler  
Institute of Atmospheric Sciences  
501 E St Joseph Street  
Rapid City SD 57701

Jerry Wagner  
J&J Asphalt Company  
PO Box 7105  
Rapid City SD 57709

Marcia Bowes  
Jamir Reclamation Inc  
2915 22nd Avenue S  
Brookings SD 57006

John Fraser  
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Mitchell SD 57301

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Jensen Rock & Sand Inc  
PO Box 609  
Mobridge SD 57601

Koch Industries Inc  
PO Box 2256  
ichita KS 67201-2256

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200 E Center  
Madison SD 57042

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4401 Lyndale Avenue North  
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Floyd A Larsen  
Missouri River Energy Services  
3724 W Avera DR  
Sioux Falls SD 57108-5750

Andrea Stomberg  
Montana Dakota Utilities Company  
400 N 4th Street  
Bismarck ND 58501

Milt Morris  
Morris Inc  
PO Box 1162  
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Myrl Unzelman  
Myrl & Roys Paving Inc  
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Ron Ness  
ND Petroleum Council  
120 North 3rd Street  
Bismarck ND 58501

Sara Greff Dannen  
NorthWestern Energy  
3010 West 69th Street  
Sioux Falls SD 57108

Bob Cullum  
Nutech Corporation  
PO Box 872  
Custer SD 57730-0872

George Kruse  
Pacer Corporation Company  
PO Box 912  
Custer SD 57730-0912

Del Brannan  
Pete Lien and Sons Inc  
PO Box 440  
Rapid City SD 57709-0440

Jerry Holsapple  
PSI  
2361 S Plaza Drive  
Rapid City SD 57702

Hugh Dodson  
Raven Industries  
1813 NE Avenue  
Sioux Falls SD 57104-0359

Sharon Chaples  
Royal C Johnson Veterans Hospital  
PO Box 5046  
Sioux Falls SD

Rebecca Craddock  
SD Assoc of Health Care Organizations  
3708 Brooks Place Suite 1  
Sioux Falls SD 57106

Steve Hasenohrl  
SD Dept of Ag Div of Wildlife Fire Supp  
4250 Fire Station Rd, STE 2  
Rapid City SD 57703

Steve Willard  
SD Electric Utility Companies  
PO Box 247  
Pierre SD 57501-0247

Yvonne Taylor  
SD Municipal League  
208 Island Drive  
Ft Pierre SD 57532

Jeanne Koster  
SD Peace & Justice Cntr  
PO Box 116  
Sioux Falls SD 57101-0116

Dawna Leitzke  
SD Petroleum Marketers Assoc  
PO Box 1058  
Pierre SD 57501-1058

SD Rural Electric Assoc  
PO Box 1138  
Pierre SD 57501-1138

Richard Waldner  
SD State University  
Box 2201  
Brookings SD 57007

Chris Hesla  
SD Wildlife Federation  
PO Box 7075  
Pierre SD 57501

Ann Phillips  
SEMA  
1575 S Valley Vista Drive  
Diamond Bar CA 91765

Sierra Club  
45 E Loucks St Ste 109  
Sheridan WY 82801-6329

Tim Gossman  
Simons Construction Company  
PO Box 397  
Rapid City SD 57709-0397

Lynne Keller-Forbes  
Southeastern Council of Governments  
500 N. Western Avenue, Suite 100  
Sioux Falls SD 57104

Richard Waldera  
Spencer Quarries Inc  
PO Box 198  
Spencer SD 57374

Mike Lipp  
St Lukes Midland Regional Medical Center  
305 South State Street  
Aberdeen SD 57401

Pete Bendix  
Starmark  
700 E 48th St N  
Sioux Falls SD 57104

Nanette Dailey  
State of South Dakota  
700 E Broadway Avenue  
Pierre SD 57501-2586

Wayne Hoeke  
T & R Electric Supply Company Inc.  
PO Box 180  
Colman SD 57017-0180

Steven Vold  
Toshiba  
901 North Foster  
Mitchell SD 57301

Ali Farnoud PhD  
Trinity Consultants  
106 Main Street South Suite 201  
Stillwater MN 55082

Katherine Edwards  
Trinity Consultants  
106 Main St S Suite 201  
Stillwater MN 55082

Norm Siler  
Union Pacific Railroad  
1416 Dodge Street  
Omaha NE 68179-0930

Mike Opitz  
Weatherton Contracting Company Inc  
PO Box 151  
Jeresford SD 57044

Wharf Resources Mining Co  
10928 Wharf Road  
Lead SD 57754



Erri Hollomon  
Williams Pipe Line Company  
PO Box 3448  
Tulsa OK 74101

Superintendent  
Wind Cave National Park  
26611 US Highway 385  
Hot Springs SD 57747-9430

John Chelstrom  
Xcel Energy  
414 Nicollet Mall  
Minneapolis MN 55401

Harry Luurs  
Yankton County Hwy Dept  
Box 174  
Yankton SD 57078-0174

Scott Ridgley  
Zieglar  
8050 State Hwy 101  
Shakopee MN 55379

## ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM

### NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must “establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions” for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by

appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

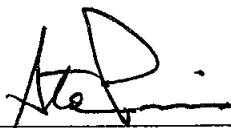
Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:

<http://denr.sd.gov/des/airprogr.aspx>



---

Steven M. Pirner  
Secretary

Published once at the total approximate cost of \_\_\_\_\_.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Daily Press & Dakotan  
Attention Display Advertising  
319 Walnut  
P O Box 56  
Yankton, SD 57078-0056

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

YANKTON DAILY  
**Press & Dakotan**

08/01/10 - 08/31/10 DENR

**TOTAL AMOUNT DUE**  
154.00

**TERMS**  
Due Upon Receipt

**CURRENT NET AMOUNT DUE**  
154.00

**30 DAYS**  
.00

**60 DAYS**  
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**OVER 90 DAYS**  
.00

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 Yankton, SD 57078  
 (605) 665-7811

**PAGE #** 1    **BILLING DATE** 08/31/10    **BILLED ACCOUNT** 10787

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**We also accept VISA and Mastercard**  
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**PLEASE DETACH AND RETURN WITH YOUR REMITTANCE**

| Date  | Newspaper Ref | Descr-Other Comments/Charges   | Ad Size | Times Run/Rate | Net Amount |
|-------|---------------|--|---------|----------------|------------|
| 07/31 |               | BALANCE FORWARD  |         |                | 43.53      |
| 08/16 | 99647760      | PAYMENT  |         |                | -43.53     |
| 08/26 | PD<br>08/26   | PUBLIC NOTICE - AIR POLLU<br>IN/FR, PD/FR<br>AIR QUALITY PROGRAM<br>PAGE: CLASS 0 2010 | 2x11I   |                | 154.00     |

**RECEIVED**  
**SEP 03 2010**  
 AIR QUALITY PROGRAM

**STATEMENT OF ACCOUNT AGING OF PAST DUE AMOUNTS**

|                |                |                |                     |                             |
|----------------|----------------|----------------|---------------------|-----------------------------|
| 154.00         | .00            | .00            | .00                 | 154.00                      |
| <b>Current</b> | <b>30 days</b> | <b>60 days</b> | <b>Over 90 days</b> | <b>Total Net Amount Due</b> |

YANKTON DAILY  
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PO Box 56, 319 Walnut St, Yankton, SD 57078 (605) 665-7811

99804    08/01/10 - 08/31/10    10787  
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Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, SD 57501

**RECEIVED**

**AUG 30 2010**

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

**AIR QUALITY  
PROGRAM**

**KELLY HERTZ** BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT HE IS THE **MANAGING EDITOR** OF THE YANKTON PRINTING COMPANY, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER PRINTED AND PUBLISHED IN THE CITY OF YANKTON, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID **COUNTY** OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED **Article 74:36 - Air Pollution Control Program Notice of Public Hearing**

TAKEN FROM THE PAPER IN WHICH IT WAS PUBLISHED IN THE NEWSPAPER ON THE **26th** DAY OF **August** 2010 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID **DISPLAY AD** TO WIT **\$154.00** ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: **8/26/2010**

FILED ON: **8/26/2010**

SUBSCRIBED AND SWORN TO BEFORE ME THIS **26th** DAY OF **August** 2010

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES **8/19/2015**

**ARTICLE 74:36 - AIR POLLUTION CONTROL PROGRAM****NOTICE OF PUBLIC HEARING TO REVISE RULES**

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Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of  
Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

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Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website: <http://denr.sd.gov/des/air/progr.aspx>

Steven M. Pirner  
Secretary

Published once at the total approximate cost of \$154.00  
Estimated publishing cost per published copy: \$0.0179

## Magedanz, Lita

---

**From:** Heather Heimes [heather.heimes@yankton.net]  
**Int:** Thursday, August 19, 2010 8:51 AM  
**To:** Magedanz, Lita  
**Subject:** Re: Emailing: Public Notice.doc  
**Importance:** High

Great! Then that's no problem!

On 8/19/10 8:10 AM, "Lita.Magedanz@state.sd.us" <Lita.Magedanz@state.sd.us> wrote:

> Heather,  
>  
> I want this next week the 26th of August. The reason why I sent it a  
> little bit early just because I'm out of the office till Monday.  
>  
> Thanks  
>  
> Lita

> -----Original Message-----  
> From: Heather Heimes [mailto:heather.heimes@yankton.net]  
> Sent: Wednesday, August 18, 2010 5:25 PM  
> To: Magedanz, Lita  
> Subject: Re: Emailing: Public Notice.doc  
> Importance: High

> Lita, This is not possible. Our display deadline is at noon two days  
> prior to the run. I would've needed to receive this on the 24th in  
> order to get this in by the 26th. Please advise what day you would  
> like this run. I could try to squeeze it in for Friday but would need  
> to know before 10am tomorrow.

> On 8/18/10 2:23 PM, "Lita.Magedanz@state.sd.us"  
> <Lita.Magedanz@state.sd.us>  
> wrote:

>> Good Afternoon Heather,

>> Please find the attached cover letter and public notice to be  
>> published in your paper. Please reply to this e-mail upon receipt to  
>> verify that you have received it. (Please Note: Publish one time only  
>> on the date specified in the cover letter).

>> If you have any questions, please call.

>> Sincerely,



>>  
>>  
>> Lita L. Magedanz  
>> Senior Secretary  
>> Department of Environment and Natural Resources  
>> Division of Environmental Services  
>> Office of Air Quality Program  
>> 523 East Capitol Avenue, Joe Foss Building  
>> Pierre, South Dakota 57501  
>> Phone# (605) 773-3151  
>> Fax# (605) 773-4068  
>> E-mail: [lita.magedanz@state.sd.us](mailto:lita.magedanz@state.sd.us)  
>> <<Public Notice.doc>>

--  
Heather M. Heimes  
Classified Manager  
Yankton Media Inc.  
Yankton Daily Press & Dakotan  
Missouri Valley Shopper  
Broadcaster Press  
Plain Talk  
Yankton, SD  
605-665-7811

## Magedanz, Lita

---

**From:** Heather Heimes [heather.heimes@yankton.net]  
**Int:** Thursday, August 19, 2010 9:14 AM  
**o:** Magedanz, Lita  
**Subject:** Re: Emailing: Public Notice.doc

**Importance:** High



1674denr.pdf (275 KB)

Attached is a proof. Estimated publishing cost is \$154. Let me know if you need any changes. Thanks and sorry for the misunderstanding on my end. I was in the wrong week :-)

Heather

On 8/19/10 8:10 AM, "Lita.Magedanz@state.sd.us" <Lita.Magedanz@state.sd.us> wrote:

> Heather,

>

> I want this next week the 26th of August. The reason why I sent it a  
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> Thanks

>

> Lita

>

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> To: Magedanz, Lita

> Subject: Re: Emailing: Public Notice.doc

> Importance: High

>

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>> If you have any questions, please call.

>> Sincerely,

>> Lita L. Magedanz  
>> Senior Secretary  
>> Department of Environment and Natural Resources  
>> Division of Environmental Services  
>> Office of Air Quality Program  
>> 523 East Capitol Avenue, Joe Foss Building  
>> Pierre, South Dakota 57501  
>> Phone# (605) 773-3151  
>> Fax# (605) 773-4068  
>> E-mail: lita.magedanz@state.sd.us  
>> <<Public Notice.doc>>

--  
Heather M. Heimes  
Classified Manager  
Yankton Media Inc.  
Yankton Daily Press & Dakotan  
Missouri Valley Shopper  
Broadcaster Press  
Plain Talk  
Yankton, SD  
605-665-7811



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Sioux Falls Argus Leader  
Attention Display Advertising  
PO Box 5034  
Sioux Falls, SD 57117-5034

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

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Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501-3181

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If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

|                  |            |  |                 |
|------------------|------------|--|-----------------|
| CUSTOMER NUMBER: | 78340      | <h1>Argus Leader</h1>                  |                 |
| INVOICE NUMBER:  | 2289635    |  |                 |
| RUN DATES:       | 8/26, 2010 | P.O. Box 677349, Dallas, TX 75267-7349 | Amount \$816.48 |

SD Dept of Environment & Natural Resources  
 Joe Foss Building  
 523 E Capitol Ave  
 Pierre, SD 57501-3182

**RECEIVED**  
**OCT 20 2010**  
 Division of Financial  
 & Technical Assistance

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 78340  
 Invoice Number: 2289635

SD Dept of Environment

**Argus Leader**  
**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Linda Schulte being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Thursday, the 26 day of August 2010,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2010

and that \$816.48 was charged for publishing the same for display advertising.

*Linda Schulte*  
 Subscribed and sworn to before me on 10/18/2010

*Candace*  
**CANDACE LOTTMAN**  
 NOTARY PUBLIC  
 SOUTH DAKOTA

My Commission expires December 22, 2015  
*October 22, 2011*

**ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM**  
**NOTICE OF PUBLIC HEARING TO REVISE RULES**

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR B 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR B 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations; recordkeeping, and reporting requirements;
3. In accordance with 40 CFR B 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR B 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR B 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR B 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
 South Dakota Department of Environment and Natural Resources  
 523 East Capitol, Joe Foss Building  
 Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:

<http://denr.sd.gov/des/air/airprogr.aspx>

Steven M. Pirner  
 Secretary

Published once at the total approximate cost of \$816.48.

0000233292

**Magedanz, Lita**

---

**From:** Webb, Nolan [NWEBB@argusleader.com]  
**Int:** Thursday, August 19, 2010 11:10 AM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

Lita,

The ad will run as a two column by eight inch ad on August 26th at a cost of \$816.48. I will request an affidavit of publication be sent along with a tear sheet. Nolan

-----Original Message-----

**From:** Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
**Sent:** Wednesday, August 18, 2010 2:13 PM  
**To:** Webb, Nolan  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

Good Afternoon Nolan,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources  
Division of Environmental Services  
Office of Air Quality Program  
523 East Capitol Avenue, Joe Foss Building  
Pierre, South Dakota 57501  
Phone# (605) 773-3151  
Fax# (605) 773-4068  
E-mail: lita.magedanz@state.sd.us  
<<Public Notice.doc>>



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Rapid City Journal  
Attention Display Advertising  
P O Box 450  
Rapid City, SD 57709-0450

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501-3181

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

# Adoption

## PROGRAM

ly was God. I had been it we would be able to add ily permanently," Emily

we got the call for these f the first things the social l was these kids might be or adoption. We said yes ven knew their names."

999, Angels in Adoption ngressional Coalition on Institute have honored 1,600 individuals, cou- rganizations nationwide. on is a national nonprofit on dedicated to raising about the millions of in need of permanent ldwide.

a member of the coali- ended the Becks for their ildren with significant four of the Beck children al needs.

are committed to See ADOPTION, Page D6

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169B to strengthen ollection of sources ass I areas. South ve National Parks.

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and BART controls, orting

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expectation of pri Petersen refi- ne the adequacy Dakota Codifie- 1.5(21), which extinued coordination lic inspection an list of "names or identifying data C- camping or lodg- the Department and Parks."

LeFort said We- AL RESOURCES was disappointed decision not to rel

or against the pro- mentation Plan may mments to the per-

AL RESOURCES

ot. 19

/walk articipation lts and \$10

367 or et for

ite-mail: news@rapidcityjournal.co

GAS TRACK Rapid Cit

Wednesday, Tuesday Month Ago Year Ago

Highest Rec Regular

Source: AAA. Et

ember 14, 2010, to ent will consider all ie Board of Minerals 1 Dakota's Regional le matters that are

earing if you have a The telephone num-

alling Lita Magedanz /aq/airprogr.aspx

# Affidavit of Publication

RECEIVED

SEP 13 2010

AIR QUALITY PROGRAM

STATE OF SOUTH DAKOTA

County of Pennington

ss.

Patricia K. Van Patten, being first duly sworn,

upon her oath says: That she is now and was at all times hereinafter mentioned, an employee of the RAPID CITY JOURNAL COMPANY, a corporation, of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said RAPID CITY JOURNAL, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each week for one successive week, the first publication thereof being on the twenty-sixth day of August, 2010; that the fees charged for the publication thereof are Two hundred seventy-eight Dollars and forty cents, for legal display advertisement.

Patricia K. Van Patten

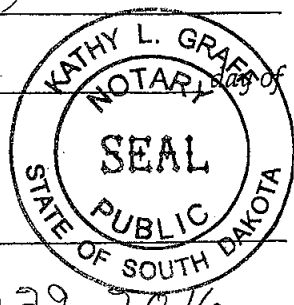
Subscribed and sworn to before me this 26<sup>th</sup> day of

August, 2010.

Kathy D. Hall

Notary public.

April 29, 2016  
My commission expires





# ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

RICK BODDICKER, ENVIRONMENTAL SENIOR SCIENTIST  
SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
523 EAST CAPITOL, JOE FOSS BUILDING  
PIERRE, SOUTH DAKOTA 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website: <http://denr.sd.gov/des/aa/airprogr.aspx>

Steven M. Pirner  
Secretary

**Magedanz, Lita**

---

**From:** Brandyn Crawford [Brandyn.Crawford@rapidcityjournal.com]  
**Sent:** Wednesday, August 18, 2010 2:39 PM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

Lisa,

I received your email, I will begin working on the ad shortly.

Thank You,

Brandyn Crawford  
Employment Specialist  
Rapid City Journal  
brandyn.crawford@lee.net  
605-394-8333

-----Original Message-----

**From:** Pattie VanPatten  
**Sent:** Wednesday, August 18, 2010 1:35 PM  
**To:** Brandyn Crawford  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

-----  
**From:** Lita.Magedanz@state.sd.us [SMTP:LITA.MAGEDANZ@STATE.SD.US]  
**Sent:** Wednesday, August 18, 2010 1:34:42 PM  
**To:** Pattie VanPatten  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High  
Auto forwarded by a Rule

Good Afternoon Pattie,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary

**Magedanz, Lita**

---

**From:** Brandyn Crawford [Brandyn.Crawford@rapidcityjournal.com]  
**Sent:** Wednesday, August 18, 2010 3:26 PM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

Lita,

The ad is ready to run on August 26, 2010. The total size is 3"x 10", the total cost is \$278.40

Thank You,

Brandyn Crawford  
Employment Specialist  
Rapid City Journal  
brandyn.crawford@lee.net  
605-394-8333

-----Original Message-----

**From:** Pattie VanPatten  
**Sent:** Wednesday, August 18, 2010 1:35 PM  
**To:** Brandyn Crawford  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

-----  
**From:** Lita.Magedanz@state.sd.us [SMTP:LITA.MAGEDANZ@STATE.SD.US]  
**Sent:** Wednesday, August 18, 2010 1:34:42 PM  
**To:** Pattie VanPatten  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High  
Auto forwarded by a Rule

Good Afternoon Pattie,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Daily Capital Journal  
Attention Display Advertising  
P O Box 878  
Pierre, SD 57501-0878

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

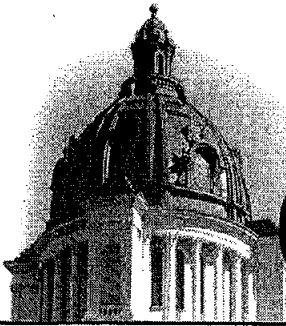
Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

RECEIVED

SEP 08 2010

AIR QUALITY PROGRAM



# Capital Journal

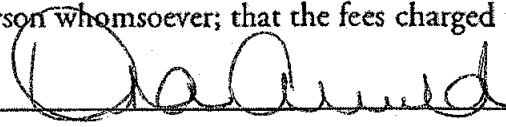
## AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Hughes

Ona Arnold of said county, being, first duly sworn, on oath, says: That he/she is the publisher or an employee of the publisher of the Capital Journal, a daily newspaper published in the City of Pierre in said County of Hughes and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal/display advertisement headed Article 74:36 - Air Pollution Control Program Notice of Public Hearing to Revise Rules a printed copy of which, taken from the paper in which the same was published, and which is here-to attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

|                  |             |       |       |
|------------------|-------------|-------|-------|
| <u>August 26</u> | <u>2010</u> | _____ | _____ |
| _____            | 20          | _____ | 20    |
| _____            | 20          | _____ | 20    |
| _____            | 20          | _____ | 20    |
| _____            | 20          | _____ | 20    |

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$288.90.

Signed: 

subscribed and sworn to before me this 3 day of September 2010



Notary Public in and for the County of Hughes, South Dakota.  
My Commission expires 2-19, 2015.

Teach

From Page A1

eighth grades.

"I will have the opportunity to work with the kids after school hours as well as on weekends," Green said.

Penn State requires students to student teach where it is supervised by their Green said.

"I could have done it at any school in Pennsylvania and student teaching at Pierre Indian Learning Center was an experience I could do out of state," Green said.

The students, Green said, will be picked up sometime this week and will start school on Monday. "I am really excited. I knew it would be a great experience, but I didn't know what to think," Green said. "I am really excited for the students to get here and start."

Green will graduate from Penn State in December with a degree in elementary and kindergarten education.

While attending Penn State, Green was the starting center for the women's basketball team. She was first recruited by many schools, including top 10 schools and many schools around Minnesota including South Dakota, North Dakota, Iowa, and Wisconsin.

Green said she based her decision on whether the school would fit her, regardless of how far away it was. The best fit was Penn State.

"My mom and I went on an official visit there," Green said. "With the environment and people around, I felt I needed to be there. It was a great experience, but now I am ready for a new experience."

Green said Penn State campus has about 42,000 students and, to Green, is a very homey, intimate and cozy campus, which she liked.

Although Green said she didn't know exactly what she wanted to do, she knew she

wanted to work with children.

"At first I wanted to run a basketball camp, but right now I am leaning more towards elementary and running my own day care at some point," Green said. "It was always in the back of my head, something that progressed while I was in college and became more concrete."

After Green is done student teaching, she said she plans to move back to St. Paul and look at working part time in day cares and substitute teaching during the spring semester.

"With my student teaching experience and substitute teaching, plus day care, it will help me start looking for full time positions in the fall," Green said.

Although this is Green's first time being in Pierre, she said she is enjoying small town life.

"I was kind of shocked because I thought Pierre would be a little bigger, since it is the capital of South Dakota," Green said. "I am used to this because I am from a small town."

OBITUARIES

Linda Titze, 59

Sept. 1, 1950 - Aug. 25, 2010

Linda Titze, 59, of Fort Pierre passed away Wednesday, Aug. 25, 2010, after a courageous battle with cancer.

Visitation will be from 5-6:30 p.m., Friday, Aug. 27 at Faith Lutheran Church in Pierre, concluding with a prayer service at 6:30 p.m. Funeral services will be at 10 a.m., Saturday, Aug. 28 at Faith Lutheran Church in Pierre, with interment following at Scotty Philip Cemetery in Fort Pierre.

Linda was born Sept. 1, 1950, in Watertown to Violet (Johnson) and Robert Hofsteezer. Linda lived in Castlewood for a short time before moving with her family to Fort Pierre where she attended and graduated from Fort Pierre schools.

Linda enjoyed school and fell in love with her high school sweetheart, David Titze. Excited to start their life together, they were married on Dec. 28, 1968 and began their journey. The couple lived in Denver, Colo., while David attended electronics school.

The couple returned to Fort Pierre and joined David's father in the family electrical business. Linda assisted with bookkeeping for the business and for D and D Auto Parts and later began working for the State Lottery Office.

Through the past 41 years of marriage the couple have shared many memories and experienced much joy. They were

blessed with two children, Troy Dean and Tamara Lynn. David and Linda raised their family in Fort Pierre and continue to call this historic community home.

Linda will forever be remembered for her generosity to all and for her love of her three grandchildren. Madysen, Blayne and Daysen were her greatest joy and brought her much happiness. Linda loved spending time with them. The children sat with grandma by the fire, assisted her with decorating and gardening and often vacationed with grandma and grandpa in the Black Hills.

Linda's home was always open to family and friends. Many family gatherings were celebrated at their home.

Grateful for having shared in her life are her husband, David; children, Troy (Tina) Titze, of Fort Pierre, and Tamara (Roger) Klebe, of Sioux Falls; her beloved grandchildren, Madysen, Blayne and Daysen; three sisters, Nancy (Clayton) Roberts, of Bryant, Joy Talley, of Pierre; three brothers, Robert Hofsteezer, of Rapid City, Casey (Phyllis) Hofsteezer, of Pierre, and Jackie Hofsteezer of Fort Pierre; brother-in-law, Clyde Neff, of North Dakota; and numerous nieces and nephews. Linda was preceded in death by her parents, Violet and Robert; sister, Judy; and nephew, Robbie Hofsteezer.

Condolences may be conveyed to the family at www.feigumfh.com.

Hike

From Page A1

aids and that becomes an extreme expense for families, but HIKE will help with that," Gonsor said.

"When I checked the mail on Friday, I saw the letter and thought it was just another denial," Jennifer Rancour said. "I just couldn't believe it."

Tristin will work with Audiology Associates to fit his new hearing aids. He said he hopes to have the new devices sometime next week.

"HIKE is a great thing to provide wonderful assistance for families for youth that are hearing impaired," Gonsor said.

"This was a total surprise. His hearing aids are so old. We had been saving, chipping away at it, hoping



LISA JOHANSEN | CAPITAL JOURNAL  
Members of Job's Daughters gather at the Masonic Lodge in Pierre to present Tristin Rancour (third from right) with a check for new hearing aids.

to get them before school started," Jennifer Rancour said.

"This is such an answer to prayer."

Children can apply for HIKE if they have a need for a hearing aid or an assistive listening device and have a financial need that can benefit from HIKE.

For more information, visit [www.thehikefund.org](http://www.thehikefund.org).

In Our Care  
John B. Murphy, 89, of Pierre  
DIED: Monday, August 23 at the Maryhouse Nursing Care Center  
MEMORIAL SERVICES: 10 am, Saturday, August 28 at Redeemer Lutheran Church  
Pre-arranged Arrangements Monument Sales  
ISBURG FUNERAL CHAPEL  
Pierre - Presho - Mirido  
Day/Evening - 15 South Lincoln  
"Our Family Serving Your Family"  
Online condolences can be sent at [www.isburgfuneralschapel.com](http://www.isburgfuneralschapel.com)

FEIGUM FUNERAL HOME  
808 W. PLEASANT DRIVE 605.224.4502  
Jeff Spawcett, Director  
Because we care...  
Linda Titze, 59, of Ft. Pierre passed away Wednesday, August 25, 2010 in Sioux Falls  
Visitation: 5:00-6:30PM, Friday, August 27, 2010 at Faith Lutheran Church  
Prayer Services: 6:30PM, Friday, August 27, 2010 at Faith Lutheran Church  
Funeral Services: 10:00AM, Saturday, August 28, 2010 at Faith Lutheran Church  
Interment: Scotty Philip Cemetery, Ft. Pierre  
WWW.FEIGUMFH.COM

ARTICLE 74:36 - AIR POLLUTION CONTROL PROGRAM NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Coolidge Meeting Room, Crookside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 - Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in docuivents) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

- 1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
- 2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
- 3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
- 4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
- 5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
- 6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Wagedanz at (605) 773-3151 or from the following website:  
<http://denr.sd.gov/desa/airprog.aspx>

Steven M. Pimer  
Secretary  
Published once at the total approximate cost of \$288.90.

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\$100 or Less FREE Ads  
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Sutley's STAR SPECIALS  
This Week's Gold Rush Drawing is: \$1,700  
Shurline SALAD DRESSING 2/\$3 (16 oz bottles)  
Hunt's Ketchup 89¢ (24 oz squeeze bottle)  
Birds Eye Frozen BROCCOLI CUTS, GREEN PEAS OR CUT CORN 99¢ (16 oz bag)  
Post RAISIN BRAN CEREAL \$1.50 (20 oz, pkg)  
PEARS 89¢ (lb.)  
Star Ranch Angus Beef RIB-EYE STEAKS \$6.99 (lb.)  
Press Start (through August 31, 2010)  
See the full grocery ad in the Reminder Plus  
Pierre 224-6752 Sutley's Markets Ft. Pierre 223-3141

RECEIVED  
SEP 08 2010  
AIR QUALITY PROGRAM

**Magedanz, Lita**

---

From: Legal Display [legaldisplay@capjournal.com]  
Sent: Wednesday, August 18, 2010 2:51 PM  
To: Magedanz, Lita  
Subject: RE: Emailing: Public Notice.doc

Thanks,  
April Pullman for Krista Kerns

-----Original Message-----

From: Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
Sent: Wednesday, August 18, 2010 2:06 PM  
To: legaldisplay@capjournal.com  
Cc: Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
Subject: FW: Emailing: Public Notice.doc  
Importance: High

Good Afternoon Krista,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources  
Division of Environmental Services  
Office of Air Quality Program  
523 East Capitol Avenue, Joe Foss Building  
Pierre, South Dakota 57501  
Phone# (605) 773-3151  
Fax# (605) 773-4068  
E-mail: lita.magedanz@state.sd.us  
<<Public Notice.doc>>



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Public Opinion  
Attention Display Advertising  
120 3<sup>rd</sup> Avenue NW  
P O Box 10  
Watertown, SD 57201-0010

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure



**Watertown Public Opinion  
AFFIDAVIT OF PUBLICATION**

**STATE OF SOUTH DAKOTA**

**COUNTY OF CODINGTON } ss**

Chris Carter being duly sworn says: That Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that affiant is and during all of said times was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper upon:

Thursday, the 26th day of August 2010,

that the full amount of the fee charged for publishing the same, including a \$5.00 affidavit fee, to-wit, the sum of \$331.50 insures solely to the benefit of publisher of said newspaper; that no agreement or understanding for the portion of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

**RECEIVED**

**SEP 02 2010**

**AIR QUALITY  
PROGRAM**

*Chris Carter*

Subscribed and sworn to before me this 26th day of August A.D. 2010.

(Seal) *[Signature]*  
Notary Public, South Dakota

My commission expires February 28, 2014

**ARTICLE 74:36 – AIR POLLUTION  
CONTROL PROGRAM  
NOTICE OF PUBLIC HEARING TO REVISE RULES**

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Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:  
<http://denr.sd.gov/des/aa/airprogr.aspx>

Steven M. Pirner,  
Secretary

Published once at the total approximate cost of \$326.50.

## **Magedanz, Lita**

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**From:** Loni Anderson [loni.anderson@thepublicopinion.com]  
**Int:** Wednesday, August 18, 2010 2:59 PM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

We will publish the attached notice on the Thursday, August 26th as requested.

Thanks much!

Loni Anderson  
Sales & Marketing Consultant  
Watertown Public Opinion  
Coteau Shopper  
(605) 886-6901 ext. 202  
(800) 658-5401 ext. 202  
www.thepublicopinion.com

-----Original Message-----

**From:** Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
**Sent:** Wednesday, August 18, 2010 2:45 PM  
**To:** loni.anderson@thepublicopinion.com  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

Hello Loni,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources  
Division of Environmental Services  
Office of Air Quality Program  
23 East Capitol Avenue, Joe Foss Building  
Pierre, South Dakota 57501  
Phone# (605) 773-3151



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

The Daily Republic  
Attention Display Advertising  
P. O. Box 1288  
Mitchell, SD 57301-1288

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

RECEIVED  
SEP 03 2010  
AIR QUALITY  
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA )  
  ) SS  
COUNTY OF DAVISON        )

Annette Kroger of said county, being, first duly sworn, on oath, says; that she is the Business Manager of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for   1   issues(s), to wit:

8-26-10 2x10 Display Advertisement-Notice of public hearing to revise rules

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That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$333.00

Signed: Annette Kroger

Subscribed and sworn to before me this 1<sup>st</sup> day of September, 2010

Deb Townsend

Notary Public  
County of Davison

My Commission Expires: 9-15-2012

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

## ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM

### NOTICE OF PUBLIC HEARING TO REVISE RULES

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Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

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Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:

<http://denr.sd.gov/des/air/airprogr.aspx>

\_\_\_\_\_  
Steven M. Pinner  
Secretary

**Magedanz, Lita**

---

**From:** Kim Henglefelt [khenglefelt@mitchellrepublic.com]  
**Sent:** Thursday, August 19, 2010 12:43 PM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

*I did receive this tahnk you*

*-----Original Message-----*

*From: Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
Sent: Wednesday, August 18, 2010 2:03 PM  
To: khenglefelt@mitchellrepublic.com  
Cc: Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
Subject: FW: Emailing: Public Notice.doc  
Importance: High*

*Good Afternoon Kim or Travis,*

*Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).*

*If you have any questions, please call.*

*Sincerely,*

*Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources Division of Environmental  
Services Office of Air Quality Program 523 East Capitol Avenue, Joe Foss  
Building Pierre, South Dakota 57501 Phone#  
(605) 773-3151 Fax# (605) 773-4068  
E-mail: lita.magedanz@state.sd.us  
<<Public Notice.doc>>*



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Daily Leader  
Attention Display Advertising  
P. O. Box 348  
Madison, SD 57042-0348

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
County of Lake } ss.

Sue Anne Artko of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and how has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper, in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

Department of Environment and Natural Resources

Display Advertisement: Air Pollution Control Program

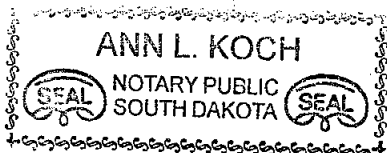
printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

- On Thursday, the 26th day of August, 2010;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;

That \$ 144.90 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Sue Anne Artko (signature)

Subscribed and sworn to before me this 27th day of August, 2010



Ann L. Koch (signature)
Notary Public, Lake County, South Dakota

Publication Fees \$
Notary Fees \$
Total \$

Received Payment,



## **ARTICLE 74:36 - AIR POLLUTION CONTROL PROGRAM**

### **NOTICE OF PUBLIC HEARING TO REVISE RULES**

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Pierre, South Dakota 57501

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<http://denr.sd.gov/des/airprogr.aspx>

Steven M. Pirner  
Secretary

Published once at the total approximate cost of \$110.25

144.9

**Magedanz, Lita**

---

From: Terra Toribio [terra@madisondailyleader.com]  
Sent: Thursday, August 19, 2010 11:49 AM  
To: Magedanz, Lita  
Subject: RE: Emailing: Public Notice.doc



DOEN\_2x10-5\_08-2  
6-10.pdf (34 K...

Lita,

Here is what I have set up for the ad on the 26th.

Thanks

TERRA TORIBIO  
ADVERTISING CONSULTANT  
Office 605.256.4555  
Fax 605.256.6190  
Email terra@madisondailyleader.com

This email is confidential and may be privileged; it is for use of the recipient(s) only. If you have received it in error, please notify us immediately; please do not copy or disclose its contents to any person or body, and delete it from your computer systems.

-----Original Message-----

From: Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
Sent: Wednesday, August 18, 2010 1:53 PM  
To: terra@madisondailyleader.com  
Cc: Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
Subject: FW: Emailing: Public Notice.doc  
Importance: High

Good Afternoon Terra,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

**Magedanz, Lita**

---

**From:** Magedanz, Lita  
**Int:** Thursday, August 19, 2010 12:01 PM  
**ro:** 'Terra Toribio'  
**Cc:** Gustafson, Brian  
**Subject:** RE: Emailing: Public Notice.doc

**Importance:** High

The title is incorrect, it should be 74:36 instead of 74:37. Please make changes and e-mail Brian Gustafson. Thanks Lita

-----Original Message-----

**From:** Terra Toribio [mailto:terra@madisondailyleader.com]  
**Sent:** Thursday, August 19, 2010 11:49 AM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

Lita,

Here is what I have set up for the ad on the 26th.

Thanks

TERRA TORIBIO  
ADVERTISING CONSULTANT  
Office 605.256.4555  
Fax 605.256.6190  
Email terra@madisondailyleader.com

This email is confidential and may be privileged; it is for use of the named recipient(s) only. If you have received it in error, please notify us immediately; please do not copy or disclose its contents to any person or body, and delete it from your computer systems.

-----Original Message-----

**From:** Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
**Sent:** Wednesday, August 18, 2010 1:53 PM  
**To:** terra@madisondailyleader.com  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

Good Afternoon Terra,

Please find the attached cover letter and public notice to be published in



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Daily Plainsman  
Attention Display Advertising  
P O Box 1278  
Huron, SD 57350-1278

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

**Affidavit of Publication**

RECEIVED

SEP 15 2010

AIR QUALITY  
PROGRAM

STATE OF SOUTH DAKOTA) ss  
County of Beadle

I Ashley Neuharth, do solemnly swear that I am the Legal Advertising Coordinator of the Huron Plainsman,

printed and published at Huron, in the state of South Dakota, and that from my own personal knowledge and reference to the files of said publication, the display advertisement for:

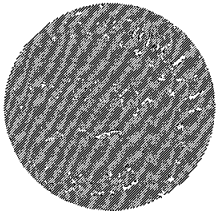
SD ENV. & NAT. RES. - PUBLIC HEARING AIR POLLUTION

was published in the Huron Plainsman in the space of: 2 X 9.5

Insert on the date(s) as follows:

AUG. 26<sup>TH</sup>, 2010

Total Cost \$ 196.65



Ashley Neuharth

Subscribed and sworn to before me this 14<sup>th</sup> day of SEPT., 2010

Ken R. McMillan

Notary Public

My Commission Expires 08/27/2016

**ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM  
NOTICE OF PUBLIC HEARING TO REVISE RULES**

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, record-keeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website: <http://denr.sd.gov/des/aa/airprogr.aspx>

Steven M. Pirner, Secretary

Published once at the total approximate cost of \$196.65.

**Magedanz, Lita**

---

**From:** Ruby Crandall [rnewman.plainsman@midconetwork.com]  
**Sent:** Wednesday, August 18, 2010 3:01 PM  
**To:** Magedanz, Lita  
**Subject:** Re: Emailing: Public Notice.doc  
**Importance:** High

I have received your email.  
Thank you.

Ruby Crandall  
Creative Services Supervisor

Plainsman/Payday/Print Shop  
49 3rd Street SE  
Huron, SD 57350

**605-353-7412**

**1-800-859-3045, ext. 412**

fax: 605-353-7422

[rnewman.plainsman@midconetwork.com](mailto:rnewman.plainsman@midconetwork.com)

On Aug 18, 2010, at 3:00 PM, <[Lita.Magedanz@state.sd.us](mailto:Lita.Magedanz@state.sd.us)> wrote:

Hi Ruby,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources  
Division of Environmental Services  
Office of Air Quality Program  
523 East Capitol Avenue, Joe Foss Building  
Pierre, South Dakota 57501  
Phone# (605) 773-3151  
Fax# (605) 773-4068  
E-mail: [lita.magedanz@state.sd.us](mailto:lita.magedanz@state.sd.us)  
<<Public Notice.doc>>  
<Water Display.doc><Public Notice.doc>



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

The Brookings Register  
Attention Display Advertising  
P O Box 177  
Brookings, SD 57006-0177

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501-3181

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure(s)



Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

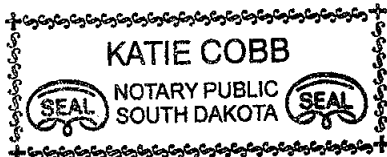
Katie Cobb of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

Article 74:36- Air Pollution Control Program Notice of Public Hearing to Revise Rules a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit said newspaper for \_\_\_\_\_ 1 times, to-wit:

August 26, 2010 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Three hundred four dollars and no cents \$304.00



*Katie Cobb*

Subscribed and sworn to before me this 27th day of August 2010

*Katie Cobb*

Notary Public in and for the County of Brookings, South Dakota. My Commission expires July 14, 2015

RECEIVED  
SEP 07 2010  
AIR QUALITY PROGRAM

**ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM  
NOTICE OF PUBLIC HEARING TO REVISE RULES**

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:  
<http://denr.sd.gov/des/qa/airprogr.aspx>

Steven M. Pirner  
Secretary

Published once at the total approximate cost of \$304.00.

02  
**Magedanz, Lita**

---

**From:** Will McMacken [registeradvertising@brookingsregister.com]  
**Int:** Wednesday, August 18, 2010 2:03 PM  
**To:** Magedanz, Lita  
**Subject:** Re: Emailing: Public Notice.doc

**Importance:** High

Received. Will publish as requested.

Thanks,

The Brookings Register

On 8/18/10 1:45 PM, "Lita.Magedanz@state.sd.us" <Lita.Magedanz@state.sd.us> wrote:

> Dear Sir or Madam:

>

> Please find the attached cover letter and public notice to be  
> published in your paper. Please reply to this e-mail upon receipt to  
> verify that you have received it. (Please Note: Publish one time only  
> on the date specified in the cover letter).

>

> If you have any questions, please call.

>

> Sincerely,

>

>

> Lita L. Magedanz

> Senior Secretary

> Department of Environment and Natural Resources

> Division of Environmental Services

> Office of Air Quality Program

> 523 East Capitol Avenue, Joe Foss Building

> Pierre, South Dakota 57501

> Phone# (605) 773-3151

> Fax# (605) 773-4068

> E-mail: lita.magedanz@state.sd.us

>

> <<Public Notice.doc>>



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

American News  
Attention Display Advertising  
P O Box 4430  
Aberdeen, SD 57402-4430

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501-3181

A new state law (effective July 1, 2009) now requires that our public notices include additional language regarding the cost to publish the public notice. The line that must be completed with a dollar amount will now appear at the bottom of the public notice. Please indicate the dollar amount before publishing in your newspaper.

If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA }

§

COUNTY OF BROWN }

May Barn being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal Slip

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

Dy for 1 successive Dy  
The first publication being made on the 26 day of Aug, 2010.  
The second publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
The third publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
The fourth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
The fifth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
The sixth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2010;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 388.63, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

May Barn

Subscribed and sworn to before me this 26 day of Aug, 2010.

Daily Circulation 16,500

Michael

Notary Public, Brown County, SD.

SEAL

My commission expires March 20, 2013

RECEIVED

SEP 01 2010

AIR QUALITY PROGRAM

DISPLAY ADVERTISEMENT

## ARTICLE 74:36 - AIR POLLUTION CONTROL PROGRAM NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 - Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

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2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic

revisions of South Dakota's State Implementation Plan for its Regional Haze Program;

4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:

<http://denr.sd.gov/des/daq/airprogr.aspx>  
Steven M. Pirner, Secretary

Published once at the total approximate cost of \$388.63.

**Magedanz, Lita**

---

To: classifieds@aberdeennews.com  
Boddicker, Rick; Regynski, Barb  
Subject: FW: Emailing: Public Notice.doc

Importance: High



Public Notice.doc  
(36 KB)

Since Amy is currently out of the office until August 20th, so I'm forwarding this messages to you.

Thank you,

Lita Magedanz

Good Afternoon Amy,

Please find the attached cover letter and public notice to be published in your paper. Please reply to this e-mail upon receipt to verify that you have received it. (Please Note: Publish one time only on the date specified in the cover letter).

If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources  
Division of Environmental Services  
Office of Air Quality Program  
523 East Capitol Avenue, Joe Foss Building  
Pierre, South Dakota 57501  
Phone# (605) 773-3151  
Fax# (605) 773-4068  
E-mail: lita.magedanz@state.sd.us

605-888-4100

**Magedanz, Lita**

---

**From:** Amy Seaboy [aseaboy@aberdeennews.com]  
**Int:** Wednesday, August 18, 2010 1:44 PM  
**to:** Magedanz, Lita  
**Subject:** Out of Office AutoReply: Emailing: Public Notice.doc

*I'm currently out of the office until August 20th, if you need immediate assistance please email [classifieds@aberdeennews.com](mailto:classifieds@aberdeennews.com). Thank you!*



**Magedanz, Lita**

---

**From:** Classified Ads Email [classifieds@aberdeennews.com]  
**Sent:** Thursday, August 19, 2010 9:08 AM  
**To:** Magedanz, Lita  
**Subject:** RE: Emailing: Public Notice.doc

Received and thank you  
~vayle

-----Original Message-----

**From:** Lita.Magedanz@state.sd.us [mailto:Lita.Magedanz@state.sd.us]  
**Sent:** Wednesday, August 18, 2010 3:26 PM  
**To:** Classified Ads Email  
**Cc:** Rick.Boddicker@state.sd.us; Barb.Regynski@state.sd.us  
**Subject:** FW: Emailing: Public Notice.doc  
**Importance:** High

Since Amy is currently out of the office until August 20th, so I'm forwarding this messages to you.

Thank you,

Lita Magedanz

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If you have any questions, please call.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Department of Environment and Natural Resources Division of Environmental Services Office of Air Quality Program 523 East Capitol Avenue, Joe Foss Building Pierre, South Dakota 57501 Phone# (605) 773-3151 Fax# (605) 773-4068  
E-mail: lita.magedanz@state.sd.us

<<Public Notice.doc>>



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 18, 2010

Black Hills Pioneer  
Attention Display Advertising  
315 Seaton Circle  
P O Box 7  
Spearfish, SD 57783-0007

Dear Sir or Madam:

Please publish the enclosed **Notice** in your paper as a **display advertisement** for one issue on the 26<sup>th</sup> day of August, 2010.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Please submit the Affidavit of Publication and invoice to:

Department of Environment and Natural Resources  
Division of Environmental Services  
Air Quality Program  
523 E. Capitol, Joe Foss Building  
Pierre, South Dakota 57501-3181

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If you have any questions, please contact this office at (605) 773-3151.

Sincerely,

Lita L. Magedanz  
Senior Secretary  
Air Quality Program

Enclosure

# Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF HARDING:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the NATION'S CENTER NEWS is a legal weekly newspaper of general circulation, printed and published in the City of Buffalo, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Article 74:36 - Air Pollution Control  
Program Notice Of Public Hearing  
"Display Advertisement"

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 27<sup>th</sup> day of Aug., 2010, and the last publication on the \_\_\_\_\_ day of \_\_\_\_\_, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 346.50, insures solely to the benefit of the publisher of the NATION'S CENTER NEWS, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

[Signature]  
Subscribed and sworn to before me this 7<sup>th</sup> day of Sept, 2010

[Signature]

Notary Public, Lawrence County, South Dakota  
My commission expires: 10-24-2010

## ARTICLE 74:36 - AIR POLLUTION CONTROL PROGRAM

### NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Coolidge Meeting Room, Creekside Lodge, 13389 U.S. Highway 16A, Custer, South Dakota, on September 15, 2010, at 9:00 a.m. mountain daylight time, to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 - Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances to Class I areas. South Dakota has two Class I areas and they are the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must "establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions" for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to BART and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or South Dakota's Regional Haze State Implementation Plan may do so by appearing in person at the hearing or by submitting written comments to the person and address noted as follows:

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capitol, Joe Foss Building  
Pierre, South Dakota 57501

Written comments must be received by close of business on September 14, 2010, to be considered. After the hearing, the Board of Minerals and Environment will consider all written and oral comments it receives on the proposed amendments. The Board of Minerals and Environment may modify or amend a proposed rule and/or South Dakota's Regional Haze State Implementation Plan at that time to include or exclude matters that are described in this notice.

Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Lita Magedanz at (605) 773-3151 or from the following website:

<http://denr.sd.gov/des/aq/airprogr.aspx>

Steven M. Pirner  
Secretary

Published once at the total approximate cost of \$346.50.

## Magedanz, Lita

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**From:** Dru Thomas [dru@bhpioneer.com]  
**Sent:** Thursday, August 19, 2010 11:01 AM  
**To:** Magedanz, Lita  
**Subject:** Re: Emailing: Public Notice.doc

**Importance:** High

Your notice will run as requested.

Thank you.

**Dru Thomas**

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"The man who stops advertising to save money is like the man who stops the clock to save time" - Thomas Jefferson

On Aug 18, 2010, at 1:16 PM, <[Lita.Magedanz@state.sd.us](mailto:Lita.Magedanz@state.sd.us)> <[Lita.Magedanz@state.sd.us](mailto:Lita.Magedanz@state.sd.us)>  
wrote:

<SPEAR.DIS.doc>

Board of Minerals and Environment  
Coolidge Meeting Room  
Creekside Lodge  
13389 U.S. Highway 16A  
Custer, South Dakota

September 15-16, 2010

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Richard Sweetman. Secretary Linda Hilde noted that a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Dennis Landguth, Chuck Monson, Glenn Blumhardt, Tim Johns, Linda Hilde and Pete Bullene..

BOARD MEMBERS ABSENT: Bob Duxbury.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM JULY 15, 2010, MEETING: Motion by Blumhardt, seconded by Johns, to approve the minutes from the July 15, 2010, Board of Minerals and Environment meeting, as mailed. Motion carried.

MINING ISSUES: Eric Holm, DENR Minerals and Mining Program, was administered the oath by Tim Johns.

LAC Minerals (USA),LLC: Mr. Holm reported that LAC Minerals has requested release of liability for exploration permits (EXNI's) 180, 222, 252, 278, and 320. Under these permits, LAC conducted exploration activities in and around the area of the Richmond Hill Mine and to the north of the Wharf Mine. Exploration work was completed in the mid 1990's, which included the drilling of 130 holes. The holes were plugged in accordance with ARSD 74:11:08. About 18.2 acres were disturbed and reclaimed.

The department originally inspected the areas affected and reclaimed under the exploration permits during August and September 2000, and June and July 2001. It was determined the permits could not be released because of noxious weed infestations and unreclaimed road issues. The department inspected the areas again on August 18, 2010, and made the following observations.

EXNI-180: During the 2000 and 2001 inspections, a portion of an exploration road on US Forest Service property was left open for access to a landowner's property. However, an easement from the US Forest Service was needed to keep the road open. Since the time of the inspection, Homestake obtained ownership of the road through a land exchange with the US Forest Service and requested the road be left open for access to properties in the area.

EXNI's 222, 252, 278, and 320: During the 2000 and 2001 inspections, infestations of St. John's wort, tansy, and Canada thistle were noted along drill trails covered under these permits. Since the time of the inspection, LAC has sprayed the areas several times in order to control the noxious weeds. During the August 18, 2010 inspection, the department noted that the noxious weed infestations have successfully been brought under control.

Mr. Holm noted that during the 2000 and 2001 inspections, a portion of an exploration road affected under EXNI-278 was left unreclaimed for access to a landowner's property. Since the time of the inspection, the land was sold as is to another party, which included the unreclaimed exploration road. However, numerous pine trees are now covering the road. The road is now basically reclaimed.

As a result of the August 18, 2010, inspection, the department recommended release of liability for EXNI numbers 180, 222, 252, 278, and 320 and release of surety bond number 6225041, Safeco Insurance Company of America, in the amount of \$20,000.

Motion by Johns, seconded by Landguth, to release liability for liability for LAC Minerals (USA) LLC, Central City, SD, EXNI numbers 180, 222, 252, 278, and 320 and release of surety bond number 6225041, Safeco Insurance Company of America, in the amount of \$20,000.

Other Mining Issues: Prior to the meeting, the board received a copy of the matrix sheet listing the DENR recommendations for releases of liability and surety, transfers of liability, and releases of liability.

Motion by Hilde, seconded by Monson, to accept the DENR recommendations for releases of liability and surety, transfers of liability, and releases of liability, as shown on the matrix sheet (see attachment). Motion carried.

PUBLIC HEARING TO CONSIDER THE PROPOSED ADDITION OF ARSD 74:36 21- REGIONAL HAZE PROGRAM: Chairman Sweetman opened the hearing at 10:00 a.m. MDT.

The purpose of the hearing was to consider the proposed addition of the Administrative Rules of South Dakota, Chapter 74:36:21 – Regional Haze Program and South Dakota's Regional Haze State Implementation Plan.

In the 1990 Clean Air Act Amendments, Congress added section 169B to strengthen and reaffirm the national goal and address visibility impairment from a collection of sources whose emissions are mixed and transported over long distances. South Dakota has two Class I areas – the Badlands and Wind Cave National Parks.

EPA promulgated the regional haze rule on July 1, 1999. Under Title 40 of the Code of Federal Regulations (CFR), section 51.308(d)(1), states must establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions for each Class I area within a state by 2064. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The proposed rules and South Dakota's State Implementation Plan for adopting a Regional Haze Program establish the measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan addresses the following elements:

Board of Minerals and Environment  
September 15-16, 2010, Meeting Minutes

1. In accordance with 40 CFR § 51.308(d), the core regional haze program requirements (e.g., identification of Class I areas; determination of baseline conditions, natural conditions, and uniform rate of progress; and baseline, current and future emissions inventories);
2. In accordance with 40 CFR § 51.308(e), who is subject to Best Available Retrofit Technology (BART) and BART controls, emissions limits, compliance determinations, recordkeeping, and reporting requirements;
3. In accordance with 40 CFR § 51.308(f), a commitment to conduct comprehensive periodic revisions of South Dakota's State Implementation Plan for its Regional Haze Program;
4. In accordance with 40 CFR § 51.308(g), a commitment to periodically report the progress towards achieving reasonable progress goals;
5. In accordance with 40 CFR § 51.308(h), a commitment to determine the adequacy of the existing implementation plan; and
6. In accordance with 40 CFR § 51.308(i), the requirements for continued coordination with states and federal land managers.

In January 2010, DENR submitted a draft of South Dakota's Regional Haze State Implementation Plan (SIP) to EPA, the National Park Service, the US Forest Service, South Dakota Department of Agriculture, the states of Nebraska, Colorado, Wyoming, Montana, North Dakota, Minnesota, and Michigan, Otter Tail Power Company, Black Hills Power and Light, GCC Dakotah, Pete Lien & Sons, and Hills Materials.

Comments were submitted by EPA, the National Park Service, the US Forest Service, and Otter Tail Power Company. DENR staff reviewed and responded to the comments. DENR's response to the comments is included as Attachment D in the SIP package. Several changes were made to the SIP in response to the comments.

In August 2010, DENR resubmitted the final draft of the SIP to the same group as well as the Legislative Research Council (LRC), Bureau of Finance and Management.

Notice of the public hearing was published on August 26, 2010, in the following newspapers: Aberdeen American News, Brookings Register, Huron Plainsman, Madison Daily Leader, Mitchell Daily Republic, Pierre Capital Journal, Rapid City Journal, Sioux Falls Argus Leader, and Yankton Daily Press and Dakotan. Notice of the hearing was published on August 27, 2010, in the Black Hills Pioneer. Affidavits of Publication are on file at DENR.

Notice of the hearing was posted on DENR's website and sent to the department's interested parties mailing list, which includes environmental groups, industry and other interested parties.

Following the notice of the public hearing, written comments were submitted by Otter Tail Power Company, EPA, and the Sierra Club.

Mr. Boddicker stated that Otter Tail Power Company's suggested change was made to 74:36:21:11. He noted that none of the comments submitted by EPA and the Sierra Club were addressed in the rules because the comments were received just prior to the hearing.



Rick Boddicker and Kyrik Rombough, DENR Air Quality Program, presented background information and an overview of the proposed Regional Haze rules. They answered questions from the board.

Following presentation of the proposed rules, Chairman Sweetman request comments from the public. No one offered public comments.

Mr. Rombough noted that LRC reviewed and approved the proposed rules for form, style, and legality. LRC's changes were incorporated into the final version of the rules.

Mr. Rombough stated that in response to a comment from EPA, the staff proposed the following be added to 4:36:21:12: "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."

Chairman Sweetman asked if staff intended to include in the rules any of the suggestions submitted by the Sierra Club.

Mr. Rombough stated that many of the Sierra Clubs comments were regarding more stringent Best Available Retrofit Technology (BART) requirements for Big Stone Power Plant. The Sierra Club references using a control efficiency. Mr. Rombough said control efficiencies depend upon the inlet to the system – what comes in and what comes out. If the inlet varies then the control efficiency varies. The Sierra Club wants the department to take an emission rate that Otter Tail has used in the past and automatically multiply it by 90% control and say that is what the limit should be. Mr. Rombough said this does not take into account the variability of the system, therefore, he disagrees with this approach.

The Sierra Club's comment letter also references several BACT limits that coal fired power plants are doing now. In some instances, these are brand new units and they are able to be designed to meet those BACT limits. Mr. Rombough said he would not expect an existing facility to meet what a new facility can do because they are designed from the bottom up.

Mr. Rombough said regarding nitrogen oxides, there is a temperature required for the SCR. If they cannot meet that temperature requirement, they will have to do something more.

Regarding the BACT limits, Mr. Rombough said since 2000 the range for nitrogen oxide was from 0.05 to 0.1. DENR is recommending 0.1. Sulfur dioxide was approximately 0.04 to 0.17, and the proposal is for 0.09, still taking into account what can be achieved.

Regarding startup and shutdown, Mr. Rombough said a case by case limit was established on a lb/hour basis, which is the actual BART limit that applies at all times. This is the limit that was used in the model. EPA wants a lb/mmBtu limit to apply during startup and shutdown, which Mr. Rombough disagrees with regarding sulfur dioxide and nitrogen oxide. During the Big Stone II contested case hearing, Otter Tail did state that they could meet the particulate limits during startup and shutdown on lb/mmBtu basis.

Terry Grauman, Otter Tail Power Plant, stated that Otter Tail would accept the particulate limit during startup and shutdown.

Motion by McCahren, seconded by Johns, to amend 74:36:21:06 (2) as follows: PM10 emissions in excess of 0.012 pounds per million Btus, which ~~does not~~ includes periods of startup and shutdown. Motion carried.

Motion by Johns, seconded by Blumhardt, to amend 74:36:21:11 as follows: 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. Motion carried.

Motion by McCahren, seconded by Monson, to amend 74 36:21:12 as follows: 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. Motion carried.

Motion by McCahren, seconded by Hilde, to adopt 74:36:21 Regional Haze Program, as amended. Motion carried.

Chairman Sweetman declared the hearing at 11:30 a.m. MDT.

TOURS: On Wednesday, September 15, the board toured the Wharf Resources mine site.

On Thursday, September 16, the board toured Barker Dome area, Powertech, and the Pacer Corporation mica facility.

ADJOURNMENT: The meeting adjourned at 4:30 p.m. MDT on September 16.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Sept. 15, 2010

Board of Minerals + Environment

| <u>Name (Please Print)</u> | <u>Address</u>   | <u>Representing</u>  |
|----------------------------|------------------|----------------------|
| Eric Holm                  | Pierre           | DENR                 |
| Mike Cepak                 | "                | "                    |
| Thomas Cline JR            | Pierre           | SD DENR - M+M        |
| Chet Johnson               | Pierre           | DENR - M+M           |
| Todd Pechota               | CUSTER           | Black Hills N.F.     |
| MARK ROLFES                | FERGUS FALLS MN  | OTTER TAIL POWER     |
| Mark Thoma                 | Fergus Falls, MN | OTTER Tail Power Co. |
| Tehny Gammaw               | Fergus Falls, MN | otter Tail Power Co. |
| Tim Rojets                 | Rapid City       | BHP                  |

# South Dakota Board of Minerals & Environment

September 15, 2010

| <u>License/Permit Holder</u>                          | <u>License/<br/>Permit</u> | <u>Site No.</u> | <u>Surety Amt.</u> | <u>Surety No.</u> | <u>Surety Company/Bank</u>   | <u>DENR Recommendation</u>      |
|---|----------------------------|-----------------|--------------------|-------------------|--|---------------------------------|
| <b><u>Releases of Liability &amp; Surety:</u></b>     |                            |                 |                    |                   |  |                                 |
| LAC Minerals (USA), LLC<br>Central City, SD           |                            |                 | \$20,000           | 6225041           | Safeco Insurance Company of<br>America   | Release liability and \$20,000. |
|   | EXNI-180                   |                 |                    |                   | Portions of Sections 15, 22, & 23; T5N-R2E, Lawrence County  |                                 |
|   | EXNI-222                   |                 |                    |                   | Section 15; T5N-R2E, Lawrence County   |                                 |
|   | EXNI-252                   |                 |                    |                   | Sections 14, 15, 22, 23, & 27; T5N-R2E, Lawrence County  |                                 |
|   | EXNI-278                   |                 |                    |                   | Sections 14, 15, 23, 26, & 27; T5N-R2E, Lawrence County  |                                 |
|   | EXNI-320                   |                 |                    |                   | Sections 24, 25, & 26; T5N-R2E, Lawrence County  |                                 |
| <br><b><u>Releases of Liability &amp; Surety:</u></b> |                            |                 |                    |                   |  |                                 |
| Brandon Materials Company<br>Brandon, SD              | 83-17                      |                 | \$2,500            | 55-194354         | United Fire & Casualty<br>Company  | Release liability and \$2,500.  |
|   |                            | <b>17001</b>    |                    |                   | Tr. 1 of the E1/2 NW1/4 Section 3, except Florell's Tr. A & the W. 340'<br>of Tr. 3 of the NE1/4 Section 3; T101N-R48W, Minnehaha County |                                 |
| Crandall Construction<br>Cayuga, ND                   | 83-244                     |                 | \$3,500            | 58037471          | Western Surety Company   | Release liability and \$3,500.  |
|   |                            | <b>244002</b>   |                    |                   | E1/2 Section 2; T128N-R56W, Marshall County  |                                 |

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|---|-----------------------|-----------------|---|-------------------|--|--------------------------------|
| <b><u>Releases of Liability &amp; Surety:</u></b> |                       |                 |   |                   |  |                                |
| J & J Enterprises<br>Montrose, SD                 | 04-804                |                 | \$1,500<br>\$2,000  | 3966<br>4013      | Security State Bank, Montrose<br>Security State Bank, Montrose                         | Release liability and \$3,500. |
|   |                       | <b>804001</b>   | NE1/4 Section 28; T104N-R54W, McCook County                     |                   |  |                                |
| Stava Gravel<br>Clear Lake, SD                    | 83-185                |                 | \$500<br>\$2,500  | 26193<br>16980    | Deuel County National Bank,<br>Clear Lake<br>Deuel County National Bank,<br>Clear Lake | Release liability and \$3,000. |
|   |                       | <b>185003</b>   | SW1/4 Section 18; T115N-R48W, Deuel County                      |                   |  |                                |
| Craig Thieman<br>Winner, SD                       | 02-752                |                 | \$500<br>\$1,000  | 57964<br>94854    | First National Bank, Pierre<br>First National Bank, Pierre                             | Release liability and \$1,500. |
|   |                       | <b>752001</b>   | NW1/4 Section 33; T96N-R77W, Tripp County                       |                   |  |                                |
| <b><u>Transfer of Liability:</u></b>              |                       |                 |   |                   |  |                                |
| C & W Enterprises, Inc.<br>Sioux Falls, SD        | 98-671                |                 | \$-0-   | NA                | NA   | Transfer liability.            |
|   |                       | <b>671010</b>   | SE1/4 NW1/4 & NE1/4 SW1/4 Section 5; T7S-R4E, Fall River County |                   |  |                                |
| Transfer to:                                      |                       |                 |   |                   |  |                                |
| Fisher Sand & Gravel Company<br>Dickinson, ND     | 83-54                 |                 | \$20,000  | 190-002-030       | Liberty Mutual Insurance<br>Company  |                                |

# South Dakota Board of Minerals & Environment

September 15, 2010

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|---|----------------------------|-----------------|---|--------------------|----------------------------|----------------------------|
| <b><u>Transfers of Liability:</u></b>                     |                            |                 |   |                    |                            |                            |
| Dakota Road Builders, Inc.<br>Slayton, MN                 | 83-240                     |                 | \$20,000                                      | 141528018          | Western Surety Company     | Transfer liability.        |
|   |                            | <b>240001</b>   | SE1/4 Section 7; T2N-R15E, Pennington County  |                    |                            |                            |
| Transfer to:  |                            |                 |   |                    |                            |                            |
| Pennington County Highway<br>Department<br>Rapid City, SD | 83-45                      |                 | EXEMPT  | NA                 | NA                         |                            |
| Midland Contracting, Inc.<br>Huron, SD                    | 03-768                     |                 | \$20,000                                      | 929292924          | Western Surety Company     | Transfer liability.        |
|   |                            | <b>768002</b>   | Section 17; T109N-R63W, Beadle County         |                    |                            |                            |
| Transfer to:  |                            |                 |   |                    |                            |                            |
| Beadle County Highway<br>Department<br>Huron, SD          | 83-76                      |                 | EXEMPT  | NA                 | NA                         |                            |
| <b><u>Release of Liability:</u></b>                       |                            |                 |   |                    |                            |                            |
| Bob L. Anderson Construction<br>Bridgewater, SD           | 83-196                     |                 | \$4,500                                       | ILOC<br>#490022158 | CorTrust Bank, Freeman     | Release liability.         |
|   |                            | <b>196015</b>   | SW1/4 Section 4; T99N-R57W, Hutchinson County |                    |                            |                            |

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September 15, 2010

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|--|-----------------------|-----------------|--------------------|--|--|----------------------------|
| <b><u>Releases of Liability:</u></b>       |                       |                 |                    |  |  |                            |
| C & W Enterprises, Inc.<br>Sioux Falls, SD | 98-671                |                 | \$-0-              | NA   | NA   | Release liability.         |
|  |                       | <b>671002</b>   |                    | N1/2 NW1/4 Section 10; T123N-R53W, Day County    |  |                            |
| Dakota Road Builders, Inc.<br>Slayton, MN  | 83-240                |                 | \$20,000           | 141528018  | Western Surety Company                           | Release liability.         |
|  |                       | <b>240023</b>   |                    | SW1/4 SW1/4 Section 22; T116N-R49W, Deuel County |  |                            |
| Hesla Services<br>Webster, SD              | 01-719                |                 | \$500<br>\$3,000   | 621016394<br>23393                               | CorTrust Bank, Webster<br>CorTrust Bank, Webster | Release liability.         |
|  |                       | <b>719002</b>   |                    | S1/2 SE1/4 Section 1; T122N-R56W, Day County     |  |                            |
| TF Luke & Sons, Inc.<br>Kimball, SD        | 83-11                 |                 | \$20,000           | 929211763  | Western Surety Company                           | Release liability.         |
|  |                       | <b>11064</b>    |                    | SW1/4 Section 35; T98N-R69W, Charles Mix County  |  |                            |

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September 15, 2010

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|--|-----------------------|--|---|-------------------|---|----------------------------|
| <b><u>Releases of Liability:</u></b>                       |                       |  |   |                   |   |                            |
| Dan L. Meyers dba Meyers Sand & Gravel<br>Huron, SD        | 83-176                |  | \$20,000  | RC-0013           | Sun Surety Insurance Company                | Release liability.         |
|  |                       | <b>176002</b>                              | NE1/4 Section 25; T114N-R61W, Spink County      |                   |   |                            |
|  |                       | <b>176007</b>                              | SW1/4 Section 5; T109N-R62W, Beadle County      |                   |   |                            |
|  |                       | <b>176010</b>                              | SW1/4 Section 23; T112N-R60W, Beadle County     |                   |   |                            |
|  |                       | <b>176014</b>                              | SW1/4 Section 29; T113N-R60W, Beadle County     |                   |   |                            |
| James Olson<br>Watertown, SD                               | 83-120                |  | \$-0-   | NA                | NA  | Release liability.         |
|  |                       | <b>120011</b>                              | NW1/4 NE1/4 Section 8; T119N-R49W, Grant County |                   |   |                            |
| Doug Osborn dba Northern Plains Construction<br>Winner, SD | 98-634                |  | \$500   | 834780-300        | Sentinel Federal Credit Union,<br>Box Elder | Release liability.         |
|  |                       | <b>634001</b>                              | \$2,000   | 15839             | First National Bank, Pierre                 |                            |
|  |                       | NE1/4 Section 36; T102N-R79W, Tripp County |   |                   |   |                            |
| Allen Wilde Construction<br>Lake Preston, SD               | 85-301                |  | \$1,500   | 0242858173        | Wells Fargo Bank, Huron                     | Release liability.         |
|  |                       | <b>301006</b>                              | NW1/4 Section 21; T111N-R56W, Kingsbury County  |                   |   |                            |



# South Dakota Board of Minerals & Environment

September 15, 2010

| <u>License/Permit Holder</u>                       | <u>License/Permit</u> | <u>Site No.</u> | <u>Surety Amt.</u>   | <u>Surety No.</u> | <u>Surety Company/Bank</u> | <u>DENR Recommendation</u> |
|--|-----------------------|-----------------|--|-------------------|----------------------------|----------------------------|
| <b>Releases of Liability:</b>                      |                       |                 |  |                   |                            |                            |
| Bon Homme County Highway Department<br>Tyndall, SD | 83-39                 |                 | EXEMPT   | NA                | NA                         | Release liability.         |
|  |                       | <b>39011</b>    | SE1/4 SW1/4 Section 2; T94N-R58W, Bon Homme County                       |                   |                            |                            |
| DOT – Aberdeen Region<br>Aberdeen, SD              | 83-10                 |                 | EXEMPT   | NA                | NA                         | Release liability.         |
|  |                       | <b>10189</b>    | SW1/4 Section 33; T116N-R62W & NW1/4 Section 4; T115N-R62W, Spink County |                   |                            |                            |
| Willow Creek Township<br>Winner, SD                | 92-446                |                 | EXEMPT   | NA                | NA                         | Release liability.         |
|  |                       | <b>446001</b>   | SW1/4 Section 21; T96N-R77W, Tripp County                                |                   |                            |                            |



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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DENVER, CO 80202-1129  
Phone 800-227-8917  
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SEP 16 2010

AIR QUALITY  
PROGRAM

Ref: 8P-AR

SEP 13 2010

Brian Gustafson, Administrator  
Air Quality Program  
South Dakota Department of Environment and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501-3182

RE: EPA Preliminary Comments on August 2010  
Draft Regional Haze State Implementation Plan  
(Public Comment Version)

Dear Mr. Gustafson:

EPA has completed a preliminary review of South Dakota's August 2010 draft Regional Haze State Implementation Plan (SIP). Our comments and questions are detailed in Enclosures 1 through 3 to this letter.

We understand that you intend to consider all comments received on this public comment version of the Regional Haze SIP prior to finalizing and adopting the documents for submission to EPA. We emphasize that we will only reach a final conclusion, and perform our complete review, regarding the adequacy of South Dakota's Regional Haze SIP when we act on the South Dakota Regional Haze SIP revision through our own public notice and comment rulemaking.

We look forward to continued communications to resolve the remaining concerns with the Regional Haze SIP. If you have any questions on EPA's comments, please contact me at 303-312-6434, or your staff may contact Gail Fallon at 303-312-6281.

Sincerely,

A handwritten signature in black ink, appearing to read "Callie A. Videtich".

Callie A. Videtich, Director  
Air Program

Enclosures

cc: John Bunyak, NPS  
Sandra Silva, USFWS  
Thomas Dzomba, USFS

## ENCLOSURE 1

### EPA Region 8 Preliminary Comments on the August 2010 Draft Regional Haze SIP (Public Comment Version)

#### Summary of Major Concerns – (see detailed comments for more information):

- Many comments from our March 12, 2010 letter were not sufficiently addressed. All of the detailed preliminary comments below pertain to those previous comments and provide additional information on areas which are still problematic.
- Insufficient details were provided on how the best available retrofit technology (BART) emission limits will be made enforceable as a practical matter. See comments #1, #4 and #7 below.
- No identification of the number of years to reach natural conditions was provided as required when the Reasonable Progress Goal is less than the Uniform Rate of Progress. See comments #5 and #8 below.
- No four-factor Reasonable Progress analysis was completed. See comment #6 below.
- Recommend reviewing ARSD regulation references for typographical errors throughout both the response to comments (for future clarity in the SIP record) as well as the main SIP document. There are numerous errors likely due to the addition of 74:36:21:06, which changed the numbering of the subsequent chapters.

#### Detailed Comments:

1. Executive Summary, pp. vii-viii: Additional details are necessary to ensure that BART emission limits will be enforceable as a practical matter. The BART emission limits, compliance schedules, monitoring, recordkeeping, and compliance determining methods for Big Stone I must be specified in the text of the Regional Haze SIP or in a permit that is incorporated into the SIP. For example, in your response to our comment on this issue (#1 and #39 from Appendix D), you relied heavily on requirements of your Title V program (ARSD 74:36:05). As this program is not part of the SIP, our concerns with reliance on the Title V program in this area remain. Two examples of all the various elements of adequate language that were coordinated with the States of Wyoming and Colorado are provided in Enclosures 2 and 3 for reference.
2. Table 6-9, p. 91: Footnote 5 references a 1999 EPA Technical Bulletin on NO<sub>x</sub> controls as justification for the 35%-90% control efficiency range for the top three options. The large range in EPA's bulletin is due to inclusion of selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR), and fuel reburning for wet-bottom boilers. It is well documented that SCR achieves the high end of the range. The EPA bulletin also lists a 30%-70% control efficiency for a group of temperature-reducing controls, including over-fire air. Therefore, the proposed BART determination of SCR plus separated over-fire air (SOFA) should be better than the 90% control efficiency of SCR alone. In your response to this comment (#31 from Appendix D), there was no discussion regarding how the addition of

SOFA would not contribute to a better than 90% control efficiency. This needs to be addressed.

3. Section 6.3.5, BART Emissions Limits for Big Stone I, pp. 99-103: In order for EPA to entertain the establishment of separate BART limits for startup and shutdown conditions, an adequate record showing that the otherwise applicable limits are not achievable and that the separate startup/shutdown limits constitute BART is required as justification. Your response to this comment (#38 from Appendix D) does not provide sufficient justification for establishing the separate startup/shutdown limits. We continue to offer to work closely with you to establish appropriate 30-day rolling average emissions limits for particulate matter, sulfur dioxide and nitrogen oxides that allow for startup/shutdown conditions to help ensure SIP approvability.
4. Section 6.4, BART Requirements, p. 103: According to your proposed revisions to the South Dakota Administrative Rules, Chapter 74:36:21:10, a permit modification will be required for your BART determination on Otter Tail's Big Stone I. Without seeing the details of such permit, it is difficult to determine whether this section of the SIP adequately addresses requirements for enforceability, including appropriate averaging times, compliance verification procedures, and recordkeeping and reporting requirements, and proper operation and maintenance procedures. As noted in comment #1 above, these requirements must be specified either in the text of the Regional Haze SIP or in a permit that is incorporated into the SIP. Your response to this comment (# 39 from Appendix D) relied heavily on your Title V program which is not part of the SIP and does not fully address this issue.
5. Section 7.2.1, Breakdown of CMAQ Modeling Results, pp. 106-107: Your response (#47 from Appendix D) addressed most of our questions with one exception. The SIP must provide the number of years necessary to reach natural conditions, as required by 40 CFR 51.308(d)(1)(ii) when the reasonable progress goal (RPG) is less than the uniform rate of progress (URP). While you state in Section 10.3 on page 127 that you believe South Dakota can still meet the reasonable progress goals and achieve natural conditions by 2064, the data, as currently presented, does not support this proposed conclusion.
6. Section 7.2.2, Four Factor Analysis, pp. 107-109: DENR's determination that a four-factor analysis is not warranted at this time is not acceptable. A four-factor analysis must be completed in establishing the RPGs for Class I areas impacted by South Dakota emissions, as well as in justifying a RPG that is less than URP. Despite your response to this comment (#49 from Appendix D) regarding minimal contribution from point sources to visibility impairment, a four-factor analysis is required to justify this conclusion. Again, we suggest looking for additional reductions from GCC Dacotah, Ben French, and Pete Lien as well as the potential from the close proximity of Rapid City to Badlands.
7. Section 8.5.6, Enforceable Emission Limits and Control Measures, p. 116: Though this section was slightly reworded per your response (#56 from Appendix D), your intention to establish the Big Stone I BART limits and control measure requirements in an air quality permit requires the permits' incorporation into the SIP. The South Dakota draft construction

permit program regulations are currently under review by our office. Until this has been approved into the SIP, it will not be appropriate to rely upon the program for your BART permits.

8. Section 10.3, Public Input, pp. 126-127: As noted in comment #5 above, the SIP must provide the public with a calculation of the number of years required to reach natural conditions if the RPG provides a slower rate of improvement than that needed to attain natural conditions by 2064 per 40 CFR 51.308(d)(1)(ii). We understand your concerns regarding assumptions for other states included in the WRAP analysis; however, this SIP must include your best estimate of number of years to reach natural conditions with the proposed RPGs. Though this section was slightly reworded per your response (#48 from Appendix D), the number of years is still lacking.
9. ARSD Chapter 74:36:21:12, Federal Land Manager Notification and Review: Your response (#65 from Appendix D) did not adequately address our concern related to FLM consultation on BART permit reviews. As required by the Regional Haze Rule, the Federal Land Managers must be provided a 60-day consultation period prior to any public hearing on the Regional Haze SIP. Since a BART permit is an integral part of the Regional Haze SIP, this 60-day consultation period must extend to FLM BART permit review as well. In addition, since any BART permit must be incorporated into the Regional Haze SIP, the 30-day public notice for the SIP needs to identify the inclusion of any BART permits.

## ENCLOSURE 2

### EPA Region 8 -- Preliminary Comments on Wyoming's Regional Haze Monitoring, Recordkeeping, and Reporting Requirements (MRR)

**Please note:** This document is divided into two sections. The first section provides comments on the current MRR language in the State's Regional Haze SIP. We have included comments (in italics) and in some instances suggested language. The second section of this document contains information on SIP MRR elements that need to be added to the SIP and suggested language.

#### I. Current SIP Language for PacifiCorp Unit

The State of Wyoming considers the control effectiveness of a control technology to be equivalent to the BART-determined permit limit as indicated in Table XX below. The State should change the preceding sentence to read: "The State of Wyoming considers the BART-determined permit limit to be equivalent to the control effectiveness of a control technology." The limit is based on continuous compliance when the control equipment is well maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions. *The SIP must indicate that the sources will comply with BART at all times, as set forth in Section A, below.*

Table XX: Unit-by-unit BART determinations for NO<sub>x</sub> and PM/PM<sub>10</sub>:

| Unit                    | Pollutant       | Control Type | lb/MMBtu              | lb/hr                | tpy   |
|-------------------------|-----------------|--------------|-----------------------|----------------------|-------|
| 3                       | NO <sub>x</sub> | LNB/OFA      | 0.28 (30-day rolling) | 784 (30-day rolling) | 3,434 |
| PM/PM <sub>10</sub> (a) | Fabric Filter   | 0.015        | 42.1                  |                      | 184   |
| 4                       | NO <sub>x</sub> | LNB/OFA      | 0.15 (30-day rolling) | 615 (30-day rolling) | 2,694 |
| PM/PM <sub>10</sub> (a) | Fabric Filter   | 0.015        | 61.5                  |                      | 269   |

#### III. Expedient Installation and Operation of BART

*The State needs to indicate in this section that the BART determination is dependent on approval by EPA. The State must also provide a date by which the source must install and comply with the BART (and not the equipment it is used the equipment). For the BART standards, sources should install controls as expeditiously as practicable, but no later than the date after EPA approval of the SIP.* The State of Wyoming proposes that PacifiCorp install new low NO<sub>x</sub> burners with advanced OFA on Units 3 and 4, in accordance with the Division's BART determination, and conduct the required initial performance tests no later than December 31, 2010 and December 31, 2009, respectively. The State of Wyoming proposes that PacifiCorp install new full-scale fabric filters on Units 3 and 4, in accordance with the Division's BART determination, and conduct the initial performance tests required no later than December 31, 2010 and December 31, 2012, respectively. *For performance testing, the applicable EPA test method must be specified along with the location of testing and other relevant information.*

#### IV. Proper Maintenance and Operation of Control Equipment

At all times after the compliance deadline specified in [specify section], the owner/operator of each BART unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure SO<sub>2</sub>, NO<sub>x</sub>, diluent (CO<sub>2</sub> or O<sub>2</sub>), and stack gas volumetric flow rate from each BART unit. The CEMS shall be used to determine compliance with the SO<sub>2</sub> and NO<sub>x</sub> BART emission limits for each BART unit.

In determining compliance with the SO<sub>2</sub> and NO<sub>x</sub> BART limits, all periods of emissions shall be included, including startups, shutdowns, emergencies, and malfunctions.

*NOTE: Per section 302(k) of the CAA, BART limits must be met continuously. The BART limits section of the SIP need to state that the BART limits apply at all times, including periods of SSM.*

**The State of Wyoming proposes that PacifiCorp conduct initial NO<sub>x</sub> performance tests on Units 3 and 4 after the installation of low NO<sub>x</sub> burners and advanced OFA, within 30 days of achieving a maximum design rate, but not later than 90 days following initial start-up. By performance testing, the applicable EPA test method must be specified along with the requirements of testing and other relevant information.**

Owner/operator shall submit reports of any required performance stack tests for NO<sub>x</sub> within 60 calendar days after completion of the test. If a maximum design rate is not achieved within 90 days of start-up, the AQD Administrator may require testing be done at the rate achieved and again when a maximum rate is achieved. The test protocol to be used shall remain the same as that used with [unit]. If a maximum design rate is not achieved within 90 days of start-up, the AQD Administrator shall require testing be done at the rate achieved and again when a maximum rate is achieved. A test protocol shall be submitted for Division approval prior to testing and a written report of the test results shall be submitted to the Division. Testing required by the WAQSR Chapter 6, Section 3 operating permit or final test protocol required by WAQSR Chapter 6, Section 2 or Section 4 may be submitted to satisfy the testing required. The permit language is a reference to all the operating permit regulations. This needs to be replaced with a provision that will be in the SIP.

**The State of Wyoming proposes that PacifiCorp conduct initial PM/PM<sub>10</sub> performance tests on Units 3 and 4 after the installation of fabric filters within 30 days of achieving a maximum design rate, but not later than 90 days following initial start-up. By performance testing, the applicable EPA test method must be specified along with the requirements of testing and other relevant information.**

If a maximum design rate is not achieved within 90 days of start-up, the AQD Administrator shall require testing be done at the rate achieved and again when a maximum rate is achieved. Owner/operator shall submit reports of any required performance stack tests for particulate matter within 60 calendar days after completion of the test. In addition to annual stack tests, owner/operator shall monitor particulate emissions for compliance with the BART emission limits in accordance with the

applicable Compliance Assurance Monitoring (CAM) plan developed and approved in accordance with 40 CFR part 64. A test protocol shall be submitted for Division approval prior to testing and a written report of the test results shall be submitted to the Division. Testing required by the WAQSR Chapter 6, Section 3 operating permit may be submitted to satisfy the testing required. Delete the prior sentence. This is a reference to all the operating permit regulations. This needs to be replaced with a provision that will be in the SIP.

The State of Wyoming proposes performance tests and compliance with the BART limits for NO<sub>x</sub> be determined for Units 3 and 4 using a continuous emissions monitoring system (CEMS) consistent with the provisions in this section, certified in accordance with 40 CFR part 60 and data from the CEMS shall meet the requirements of 40 CFR part 75. The State of Wyoming proposes performance tests for compliance with the BART limits for PM/PM<sub>10</sub> conducted annually following 40 CFR 60.46 and EPA Reference Test Methods 1-4 and 5. EPA suggests the use of EPA Method 5, 5B, 5D, or E, as appropriate, in 40 CFR part 60, Appendix A.

Tests shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a sample of 60 dry standard cubic feet. Testing required by the WAQSR Chapter 6, Section 3 operating permit may be submitted to satisfy the testing required. Delete the prior sentence. This is a reference to all the operating permit regulations. This needs to be replaced with a provision that will be in the SIP.

## II. SIP Elements that must be added:

- The SIP must specify the averaging time for the carbon emission units, including PM.
- SIP must contain monitoring and compliance determination specifics. {See Section at the end of this analysis}
- The SIP must also contain the specific recordkeeping and reporting requirements. (See Footnote 1 for suggested language)
- The SIP must explicitly state those records the sources are required to keep to assess compliance for the time frame specified in the SIP. Records must be commensurate with regulatory requirements. Records must be available for examination upon request. (See Footnote 1 for suggested language)
- The SIP must give reporting schedules and reporting formats.
- Recordkeeping
  - The recordkeeping must be required such that failure to do so would be a separate violation.
  - Preferably, the SIP should specify that records must be kept for at least five years<sup>1</sup>

<sup>1</sup> Suggested language - Owner/operator shall maintain the following records for at least five years, and they must be available on request:

1. All CEMS data, stack test data, and data collected pursuant to the CAM plan, including the date, place, and time of sampling, measurement, or testing; parameters sampled, measured, or tested and results; the company, entity, or person that performed the testing, if applicable; and any field data sheets from testing.



- The SIP should require periodic reporting.<sup>2</sup>
- The SIP should require timely deviation reporting.<sup>3,4</sup>
- Include definitions for: (1) boiler operating day<sup>5</sup>; (2) CEMS<sup>6</sup>; and (3) substitute hourly emission rates<sup>7</sup>

Suggested language for monitoring and compliance determinations:

1. Pounds Per Hour And Tons Per Year Limits

For any hour in which fuel is combusted in the boiler, owner/operator shall calculate hourly SO<sub>2</sub> and NO<sub>x</sub> emissions in pounds at the CEMS in accordance with the monitoring procedures and requirements of 40 CFR part 75. In calculating hourly mass emissions and emissions rates, owner/operator shall use the conversion procedures specified in 40 CFR part 75, Appendix F. For any hour that valid, quality assured CEMS data are unavailable, emissions shall be calculated in accordance with the missing data substitution procedures in 40 CFR part 75, subpart D. These hourly values shall then be used to determine compliance in accordance with the particular limit's averaging period, as follows:

- 
2. Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR Part 75.
  3. Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.
  4. Any other records required by 40 CFR parts 64 and 75.

<sup>2</sup> Suggested language - Owner/operator shall also submit quarterly CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, any periods for which missing data substitution procedures were used, any CEMS repairs or adjustments, and results of any CEMS performance tests required by 40 CFR part 75 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

<sup>3</sup> Suggested language - Owner/operator shall submit quarterly excess emissions reports no later than the 30<sup>th</sup> day following the end of each calendar quarter. Excess emissions means emissions that exceed the emissions limits specified in \_\_\_\_ above.

<sup>4</sup> Suggested language - Owner/operator shall also submit quarterly reports of any exceedances or excursions under the approved CAM plan, and steps taken to correct the exceedances or excursions, in accordance with 40 CFR 64.9(a).

<sup>5</sup> Define boiler operating day as "any 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time at the steam generating unit." See, 40 CFR part 51, Appendix Y, section V.

<sup>6</sup> Suggested language - Continuous emission monitoring system" or "CEMS" means the equipment required by [this section] to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of SO<sub>2</sub> or NO<sub>x</sub> emissions, other pollutant emissions, diluent, or stack gas volumetric flow rate.

<sup>7</sup> Suggested language - "Substitute hourly emission rates" or "substitute hourly emission values" means any hourly emission rates or values calculated in accordance with the missing data substitution procedures of 40 CFR part 75, subpart D, where valid, quality assured CEMS data for that hour are unavailable.

a. **Pounds Per Hour Limits.** If the limit [in Table \_\_\_ (cross-ref BART limit table)] is expressed as a lb/hr limit, owner/operator shall calculate average lb/hr emissions over the appropriate averaging period, as follows:

i. **Limits with a 30-day averaging period:** Emissions shall be calculated on a 30-day rolling average basis. At the end of each boiler operating day, owner/operator shall calculate a new 30-day rolling average emission rate in lb/hr from the arithmetic average of all valid and substitute hourly emission values from the CEMS for the most recent 30 boiler operating days

ii. **Limits with a 12-month averaging period:** emissions shall be calculated on a 12-month rolling average basis. At the end of each month, owner/operator shall calculate a new 12-month rolling average emission rate in lb/hr from the arithmetic average of all valid and substitute hourly emission values from the CEMS for the most recent 12 months.

b. **Tons Per Year Limits.** If the limit [in Table \_\_\_ (cross-ref BART limit table)] is expressed as a tons/yr limit, rolling 12-month total, total emissions in tons/yr shall be calculated on a 12-month rolling basis. At the end of each month, owner/operator shall calculate a new 12-month emissions total, in tons/yr, using all valid and substitute hourly emission values from the CEMS for the most recent 12 months.

2. **Pounds Per Million Btu Limits**

For any hour in which fuel is combusted in the boiler, owner/operator shall calculate hourly average SO<sub>2</sub> and NO<sub>x</sub> concentrations in pounds per million Btu at the CEMS in accordance with the requirements of 40 CFR part 75. For any hour that valid, quality assured CEMS data are unavailable, emissions shall be calculated in accordance with the missing data substitution procedures in 40 CFR part 75, subpart D. These hourly averages shall then be used to determine compliance in accordance with the particular limit's averaging period, as follows:

a. **Limits with a 3-hour averaging period:** emissions shall be calculated on a 3-hour rolling average basis. At the end of each hour, owner/operator shall calculate a new 3-hour average emission rate in lb/MMBtu from the arithmetic average of the valid and substitute hourly emission rates from the CEMS for the most recent three hours.

b. **Limits with a 30-day averaging period:** emissions shall be calculated on a 30-day rolling average basis. At the end of each boiler operating day, owner/operator shall calculate a new 30-day rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 30 boiler operating days.

c. **Limits with a 90-day averaging period:** emissions shall be calculated on a 90-day rolling average basis. At the end of each boiler operating day, owner/operator shall

calculate a new 90-day rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 90 boiler operating days.

d. Limits with a 12-month averaging period: emissions shall be calculated on a 12-month rolling average basis. At the end of each month, owner/operator shall calculate a new 12-month rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 12 months.

e. Limits with an annual calendar averaging period: emissions shall be calculated on a calendar year basis. At the end of each calendar year, owner/operator shall calculate a new emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the preceding year.

## ENCLOSURE 3

### DRAFT COMPLIANCE DETERMINATION LANGUAGE FOR COLORADO BART LIMITS 2/11/10

#### I. Monitoring, Recordkeeping, and Reporting

##### A. Definitions

“BART unit” means any unit subject to a BART emission limit in Table \_\_\_\_\_.

“Boiler operating day” means any twenty-four-hour period between midnight and the following midnight during which any fuel is combusted at any time in a BART unit.

“Continuous emission monitoring system” or “CEMS” means the equipment required by **[this section]** to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of SO<sub>2</sub> or NO<sub>x</sub> emissions, other pollutant emissions, diluent, or stack gas volumetric flow rate.

“Substitute hourly emission rates” or “substitute hourly emission values” means any hourly emission rates or values calculated in accordance with the missing data substitution procedures of 40 CFR part 75, subpart D, where valid, quality assured CEMS data for that hour are unavailable.

##### B. Monitoring/Compliance Determination: SO<sub>2</sub> and NO<sub>x</sub> BART Limits

At all times after the compliance deadline specified in **[[specify section]]**, the owner/operator of each BART unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure SO<sub>2</sub>, NO<sub>x</sub>, diluent, and stack gas volumetric flow rate from each BART unit. The CEMS shall be used to determine compliance with the SO<sub>2</sub> and NO<sub>x</sub> BART emission limits for each BART unit.

In determining compliance with the SO<sub>2</sub> and NO<sub>x</sub> BART limits, all periods of emissions shall be included, including startups, shutdowns, emergencies, and malfunctions.

**NOTE: Per section 302(k) of the CAA, BART limits must be met continuously. The BART limits section of the SIP and Reg. 3 need to state that the BART limits apply at all times, including periods of SSM.**

##### 1. Pounds Per Hour And Tons Per Year Limits

For any hour in which fuel is combusted in the boiler, owner/operator shall calculate hourly SO<sub>2</sub> and NO<sub>x</sub> emissions in pounds at the CEMS in accordance with the monitoring procedures and requirements of 40 CFR part 75. In calculating hourly mass

emissions and emissions rates, owner/operator shall use the conversion procedures specified in 40 CFR part 75, Appendix F. For any hour that valid, quality assured CEMS data are unavailable, emissions shall be calculated in accordance with the missing data substitution procedures in 40 CFR part 75, subpart D. These hourly values shall then be used to determine compliance in accordance with the particular limit's averaging period, as follows:

a. Pounds Per Hour Limits. If the limit [in Table \_\_\_ (cross-ref BART limit table)] is expressed as a lb/hr limit, owner/operator shall calculate average lb/hr emissions over the appropriate averaging period, as follows:

i. Limits with a 30-day averaging period: Emissions shall be calculated on a 30-day rolling average basis. At the end of each boiler operating day, owner/operator shall calculate a new 30-day rolling average emission rate in lb/hr from the arithmetic average of all valid and substitute hourly emission values from the CEMS for the most recent 30 boiler operating days

ii. Limits with a 12-month averaging period: emissions shall be calculated on a 12-month rolling average basis. At the end of each month, owner/operator shall calculate a new 12-month rolling average emission rate in lb/hr from the arithmetic average of all valid and substitute hourly emission values from the CEMS for the most recent 12 months.

b. Tons Per Year Limits. If the limit [in Table \_\_\_ (cross-ref BART limit table)] is expressed as a tons/yr limit, rolling 12-month total, total emissions in tons/yr shall be calculated on a 12-month rolling basis. At the end of each month, owner/operator shall calculate a new 12-month emissions total, in tons/yr, using all valid and substitute hourly emission values from the CEMS for the most recent 12 months.

## 2. Pounds Per Million Btu Limits

For any hour in which fuel is combusted in the boiler, owner/operator shall calculate hourly average SO<sub>2</sub> and NO<sub>x</sub> concentrations in pounds per million Btu at the CEMS in accordance with the requirements of 40 CFR part 75. For any hour that valid, quality assured CEMS data are unavailable, emissions shall be calculated in accordance with the missing data substitution procedures in 40 CFR part 75, subpart D. These hourly averages shall then be used to determine compliance in accordance with the particular limit's averaging period, as follows:

a. Limits with a 3-hour averaging period: emissions shall be calculated on a 3-hour rolling average basis. At the end of each hour, owner/operator shall calculate a new 3-hour average emission rate in lb/MMBtu from the arithmetic average of the valid and substitute hourly emission rates from the CEMS for the most recent three hours.

b. Limits with a 30-day averaging period: emissions shall be calculated on a 30-day rolling average basis. At the end of each boiler operating day, owner/operator shall

calculate a new 30-day rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 30 boiler operating days.

c. Limits with a 90-day averaging period: emissions shall be calculated on a 90-day rolling average basis. At the end of each boiler operating day, owner/operator shall calculate a new 90-day rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 90 boiler operating days.

d. Limits with a 12-month averaging period: emissions shall be calculated on a 12-month rolling average basis. At the end of each month, owner/operator shall calculate a new 12-month rolling average emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the most recent 12 months.

e. Limits with an annual calendar averaging period: emissions shall be calculated on a calendar year basis. At the end of each calendar year, owner/operator shall calculate a new emission rate in lb/MMBtu from the arithmetic average of all valid and substitute hourly emission rates from the CEMS for the preceding year. **[[Need to address bubbled units.]]**

C. Monitoring/Compliance Determination: Particulate BART Limits

1. EGU Particulate BART Limits.

Compliance with the particulate BART emission limits for each EGU BART unit shall be determined from annual performance stack tests. Within 60 days of the compliance deadline specified in \_\_\_\_\_, and on at least an annual basis thereafter, the owner/operator of each EGU BART unit shall conduct a stack test on each unit to measure particulate emissions using EPA Method 5, 5B, 5D, or 17, as appropriate, in 40 CFR part 60, Appendix A. A test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet.

In addition to annual stack tests, owner/operator shall monitor particulate emissions for compliance with the BART emission limits in accordance with the applicable Compliance Assurance Monitoring (CAM) plan developed and approved in accordance with 40 CFR part 64.

2. CEMEX Particulate BART Limits. **[[Need to address CEMEX particulate limits – 20% opacity and lb/ton of dry feed.]]**

D. Recordkeeping

Owner/operator shall maintain the following records for at least five years:

1. All CEMS data, stack test data, and data collected pursuant to the CAM plan, including the date, place, and time of sampling, measurement, or testing; parameters sampled, measured, or tested and results; the company, entity, or person that performed the testing, if applicable; and any field data sheets from testing.
  2. Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR Part 75.
  3. Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.
  4. Any other records required by 40 CFR parts 64 and 75.
- E. Reporting requirements

Owner/operator shall submit quarterly excess emissions reports no later than the 30<sup>th</sup> day following the end of each calendar quarter. Excess emissions means emissions that exceed the emissions limits specified in \_\_\_\_ above. Owner/operator shall submit reports of any required performance stack tests for particulate matter, within 60 calendar days after completion of the test. Owner/operator shall also submit quarterly reports of any exceedances or excursions under the approved CAM plan, and steps taken to correct the exceedances or excursions, in accordance with 40 CFR 64.9(a).

Owner/operator shall also submit quarterly CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, any periods for which missing data substitution procedures were used, any CEMS repairs or adjustments, and results of any CEMS performance tests required by 40 CFR part 75 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).



September 14, 2010

Rick Boddicker, Environmental Senior Scientist  
South Dakota Department of Environment and Natural Resources  
523 East Capital, Joe Foss Building  
Pierre, South Dakota 57501

**Re: Comments on the South Dakota Draft Regional Haze SIP**

Dear Mr. Boddicker:

Sierra Club, the National Parks Conservation Association, and Plains Justice respectfully submit the following comments on South Dakota's draft regional haze plan. South Dakota's draft plan represents a good start to a rule that will protect nearby Class I areas from haze-causing pollution. However, the state's plan could, and must, go further still to ensure the goal of natural visibility by 2064.

**Best Available Retrofit Technology (BART) Determination for Big Stone Power Plant**

Federal regulations mandate that states' regional haze SIPs include emission limitations representing BART for each BART-eligible source. 40 C.F.R. §51.308(e). Best available retrofit technology or BART is defined as follows:

Best Available Retrofit Technology (BART) 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 which 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 which may reasonably be anticipated to result from the use of such technology.

40 C.F.R. § 51.301.

BART is to be determined based on a five factor analysis. 40 C.F.R. Part 51, Subpart Y, Section I.F.1. EPA's five factor analysis requirements stems from statutory and regulatory requirements regarding how BART is to be determined. Specifically:



Based on the percent removal assumed for the wet and dry scrubbers and the proposed emission limits, it is clear that Otter Tail assumed an uncontrolled SO<sub>2</sub> emission rate of approximately 0.86 lb/MMBtu.<sup>1</sup> This is what Otter Tail claimed was the highest 24-hour average rate of SO<sub>2</sub> emitted by Big Stone I during 2001-2003. Table 1.2-1 of Otter Tail's November 2009 BART Submittal to DENR. While the BART guidelines require use of highest daily emissions in the visibility modeling analysis, that is not an appropriate starting point for setting a BART emission limit that is supposed to reflect BART, especially given that the BART emission limits apply on a 30 day average basis.

A review of the annual average SO<sub>2</sub> emission rates from Big Stone I over the last 10 years from EPA's Clean Air Markets Database shows that the highest annual average SO<sub>2</sub> emission rate was no higher than 0.70 lb/MMBtu. This emissions rate reflects the uncontrolled SO<sub>2</sub> emissions from Big Stone I since it currently has no SO<sub>2</sub> controls. DENR should have used this emission rate, or, at worst, determined the highest 30 day average uncontrolled SO<sub>2</sub> emission rate, in setting the BART emission limit for Big Stone based on the control efficiency of the SO<sub>2</sub> controls evaluated.

## **2. DENR and Otter Tail Failed to Evaluate the Highest SO<sub>2</sub> Removal Efficiencies Achievable with a State-of-the-Art Wet Scrubber.**

DENR assumed a wet scrubber would achieve 95% control from the worst case daily SO<sub>2</sub> emission rate at Big Stone of 0.86 lb/MMBtu. Using the highest uncontrolled SO<sub>2</sub> emissions from the past 10 years of 0.70 lb/MMBtu, the BART emission limit with a 95% efficient wet scrubber should be no higher than 0.035 lb/MMBtu.

Further, wet scrubbers can achieve higher removal efficiency, as high as 99%. A prime example is the Chiyoda CT-121 FGD. Vendor information for this technology indicates that this scrubber has achieved 98-99% SO<sub>2</sub> removal even with low sulfur coal.<sup>2</sup> For example, the Chiyoda's bubbling jet reactor has consistently achieved >99% SO<sub>2</sub> removal during long-term operation at the Shinko-Kobe power plant in Japan. This facility consists of two 700-MW coal-fired utility boilers. The wet FGD was designed to achieve 0.014 lb SO<sub>2</sub>/MMBtu (9 ppmv at 3% oxygen) on an instantaneous basis and has consistently exceeded this level of control while treating gases with inlet SO<sub>2</sub> concentrations of 1.78 lb/MMBtu.<sup>3</sup> This technology has been guaranteed by Chiyoda to achieve 99% SO<sub>2</sub> removal on three coal-fired boilers in Japan.<sup>4</sup> It also has been demonstrated in the U.S. at the University of Illinois's Abbott power plant, Georgia Power's Plant Yates<sup>5</sup>, Dayton

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<sup>1</sup> For example, Otter Tail's BART analysis assumed a controlled SO<sub>2</sub> emission rate of 0.043 lb/MMBtu with a wet scrubber at 95% control. Table 3.3-1 of Otter Tail's November 2009 BART Submittal to DENR. This reflects an uncontrolled SO<sub>2</sub> emission rate of 0.86 lb/MMBtu.

<sup>2</sup> See Black & Veatch vendor brochure on CT-121, Ex 1.

<sup>3</sup> Yasuhiko Shimogama, Hirokazu Yasuda, Naohiro Kaji, Fumiaki Tanaka, and David K. Harris, Commercial Experience of the CT-121 FGD Plant for 700 MW Shinko-Kobe Electric Power Plant, Paper No. 27, presented at MEGA Symposium, Air & Waste Management Association, May 19-22, 2003, Ex.2.

<sup>4</sup> CT-121 FGD Process – Jet Bubbling Reactor, <http://www.bwe.dk/fgd-ct121.html>.

<sup>5</sup> Emission-control Technologies Continue to Clear the Air, *Power*, May/June 2002.

Similar data for the first six months of 2009 indicate that other units are currently achieving even lower SO<sub>2</sub> emissions, including Iatan Unit 1 at 0.0051 lb/MMBtu; Muscatine Unit 9 at 0.013 lb/MMBtu; Hammond Unit 2 at 0.016 lb/MMBtu; Gorgas Unit 10 at 0.017 lb/MMBtu; Prairie Creek Unit 4 at 0.019 lb/MMBtu; Hopewell Power Station Units 1 and 2 at 0.020 lb/MMBtu; and Centralia Unit BW22 at 0.021 lb/MMBtu.

Thus, the Big Stone I BART Analysis should have evaluated these levels of control based on the actual uncontrolled SO<sub>2</sub> emissions emitted by the unit over a 30 day average basis in its evaluation of a wet scrubber for BART.

### **3. DENR and Otter Tail Failed to Evaluate the Highest SO<sub>2</sub> Removal Efficiencies Achievable with a State-of-the-Art Dry Scrubber.**

DENR assumed only 90% control with a dry scrubber at Big Stone I and proposed an emission limit of 0.09 lb/MMBtu, which reflects somewhat less than 90% SO<sub>2</sub> removal efficiency from the worst case 24-hour SO<sub>2</sub> emissions of 0.86 lb/MMBtu. Using the highest uncontrolled SO<sub>2</sub> emissions from the past 10 years of 0.70 lb/MMBtu, the BART emission limit with a 90% efficient dry scrubber should be no higher than 0.07 lb/MMBtu. DENR and Otter Tail thus should have evaluated this SO<sub>2</sub> emission rate achievable with a dry scrubber in the BART analysis.

There have been several proposed coal-fired power plants burning low sulfur Powder River Basin coal that have proposed to use dry scrubbers to meet PSD requirements and that are subject to higher control efficiency requirements and/or lower SO<sub>2</sub> BACT limits than 0.09 lb/MMBtu. Those facilities include the Newmont Nevada TS power plant, the proposed White Pine power plant, the proposed Toquop power plant, and the Dry Fork power plant. The Newmont Nevada power plant is subject to a minimum 95% SO<sub>2</sub> removal efficiency requirement when burning coal with a sulfur content equal to or greater than 0.45% and is subject to a minimum 91% SO<sub>2</sub> removal efficiency when burning coal with sulfur content less than 0.45%.<sup>12</sup> This facility is currently operating in compliance with its limits. The Newmont Nevada is also subject to an SO<sub>2</sub> BACT limit of 0.065 lb/MMBtu when burning coal with less than 0.45% sulfur content. The proposed Toquop permit included an SO<sub>2</sub> BACT limit of 0.06 lb/MMBtu on a 24-hr average basis.<sup>13</sup> The Dry Fork power plant in Wyoming, which is also currently under construction, will burn Powder River Basin coal, will be equipped with a dry scrubber, and is subject to an SO<sub>2</sub> BACT limit of 0.07 lb/MMBtu.<sup>14</sup>

Thus, the Big Stone I BART Analysis should have evaluated these levels of control based on the uncontrolled SO<sub>2</sub> emissions emitted by the unit over a 30 day average basis.

### **4. DENR's Determination of Cost Effectiveness of a Wet Scrubber is within the Range of the Costs of Other SO<sub>2</sub> BART Determinations.**

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<sup>12</sup> See Section V.A.2.a.8. of Newmont Nevada Permit, Ex. 11.

<sup>13</sup> See Section V.A.2.a.(8) of draft Toquop permit, Ex. 12.

<sup>14</sup> See Dry Fork PSD Permit, Ex. 13.

Further, lower emissions of SO<sub>2</sub> that are achievable with a wet scrubber also equate to lower PM<sub>2.5</sub> concentrations since there will be less SO<sub>2</sub> in the air to contribute to sulfate formation. And studies have demonstrated that sulfate addition to sulfate-limited water bodies or wetlands can increase the transformation of mercury to its neurotoxic form, methylmercury.<sup>18</sup> Thus, with lower SO<sub>2</sub> emissions from Big Stone via the use of a wet scrubber as compared to a dry scrubber, the result should be less sulfate deposition which should decrease methylation of mercury.

These environmental benefits must also be considered in evaluating the environmental benefits of the SO<sub>2</sub> control options for BART at Big Stone I.

#### B. BART for Nitrogen Oxides (NO<sub>x</sub>) Emissions at Big Stone.

The BART analysis for NO<sub>x</sub> at Big Stone I is flawed because Otter Tail and the state failed to consider the level of control achievable with the proposed selective catalytic reduction (SCR) at Big Stone I.

DENR has proposed a NO<sub>x</sub> emission limit of 0.10 lb/MMBtu, on a 30 day average, based on the use of separated overfire air and installation of SCR. The Big Stone I boiler has already been modified to use overfire air as a NO<sub>x</sub> control.<sup>19</sup> A review of monthly average NO<sub>x</sub> emission rate data from EPA's Clean Air Markets Database shows that the highest monthly emission rate of NO<sub>x</sub> in 2009 was 0.71 lb/MMBtu. DENR's proposed 0.10 lb/MMBtu NO<sub>x</sub> emission rate therefore reflects 85.9% NO<sub>x</sub> control with the SCR. However, SCR systems can achieve 90+% reductions in NO<sub>x</sub>. The emission limit reflective of a 90% reduction in NO<sub>x</sub> would be 0.071 lb/MMBtu. This level of emissions has commonly been required as BACT in the last decade for numerous coal-fired boilers. In more recent years, lower levels of NO<sub>x</sub> have been required as BACT.

A review of recent SCR retrofits definitively shows that very high levels of NO<sub>x</sub> removal are being achieved by recent SCR retrofit installations. NO<sub>x</sub> emission rates less than 0.05 lb/MMBtu are routinely achieved, and NO<sub>x</sub> removal efficiencies are typically around 90%.<sup>20</sup> Permitting agencies have required lower NO<sub>x</sub> limits in recent BACT determinations, with many proposed and required BACT limits of 0.05-0.06 lb/MMBtu and at least one NO<sub>x</sub> BACT limit as low as 0.035 lb/MMBtu.<sup>21</sup>

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<sup>18</sup> See, e.g., Jeremiason, Jeff D. et al., Sulfate Addition Increases Methylmercury Production in an Experimental Wetland, *Environ. Sci. Technol.*, 2006, 40, 3800-3806, Ex. 16; Krabbenhoft, David P. et al., Unravelling the Complexities Mercury Methylation in the Everglades: The Use of Mesocosms to Test the Effects of "New" Mercury, Sulfate, Phosphate, and Dissolved Organic Carbon, available at [http://sofia.usgs.gov/projects/merc\\_carbon/hgmeso\\_geer03abs.html](http://sofia.usgs.gov/projects/merc_carbon/hgmeso_geer03abs.html).

<sup>19</sup> Terry Graumann of Otter Tail testified that the overfire air system had already been installed at Big Stone I to comply with acid rain requirements in the Big Stone Title V permit contested case hearing, in testimony given August 21, 2008.

<sup>20</sup> See Erickson, Clayton A. et al., Selective Catalytic Reduction System Performance and Reliability Review, The 2006 MEGA Symposium, Paper # 121, Ex. 17.

<sup>21</sup> The Plant Washington Permit has a NO<sub>x</sub> limit of 0.050 lb/MMBtu on a 30 day rolling average

haze. So DENR's proposed BART limits must include periods of startup and shutdown. Further, there is no justification to exempt Big Stone from meeting BART limits during startup and shutdown. Numerous permitting authorities have issued as stringent if not more stringent BACT limits for coal-fired boilers with no exemptions for startup and shutdown. Further, during the 2008 contested case hearing for the Big Stone II permit, Otter Tail's Terry Graumann made clear that they were not requesting exemptions from emission limits during periods of startup or shutdown, and Otter Tail's Mark Rolfes indicated the pollution controls would operate during startup and shutdown.<sup>22</sup>

Thus, not only is continuous compliance with BART limits required under federal rules, but there is no technical justification for exemptions from BART limits during startup and shutdown. Thus, these BART exemptions must be deleted.

**E. The State's Proposed BART Regulation Must Make Clear that the Emission Limitations Apply to Big Stone I.**

The EPA's BART Guidelines require that the state impose BART through enforceable requirements and that the enforceable requirements require that BART be met as expeditiously as practicable but no later than 5 years from the date EPA approves the state's regional haze SIP. DENR has proposed a state regulation to make these requirements enforceable at ARSD 74:36:21:06-09. However, the regulation specifying the emission limits fails to specify that Big Stone is subject to these emission limits. The regulation must identify the source that is subject to these emission limits ensure enforceability of the BART limits.

Second, regarding the compliance timeframe, the BART regulation should require compliance with the PM BART limit now given that Big Stone has already installed a fabric filter baghouse and can comply with the BART limit now.

Given that South Dakota is not meeting its "glide path" milestones to natural visibility conditions by 2064, it is imperative that DENR require Big Stone to install the most effective BART controls and meet stringent emission limits. We appreciate your consideration of our comments.

Sincerely,

Holly Bressett  
Project Attorney  
Sierra Club Environmental Law Program  
85 Second St., 2nd Floor  
San Francisco, CA 94105  
(415) 977-5646 (phone)  
(415) 977-5793 (fax)

Lynn McClure  
Midwest Regional Director  
National Parks Conservation Association

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<sup>22</sup> See Big Stone Contested Case Hearing Transcript, August 2008, at 617-618, 679 and 602-603.

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AIR QUALITY  
PROGRAM

August 31, 2010



Mr. Rick Boddicker  
Senior Environmental Scientist  
South Dakota Department of Environment  
and Natural Resources  
523 East Capitol  
Joe Foss Building  
Pierre, SD 57501-3181

Dear Mr. Boddicker:

Subject: Comment - Proposed Regional Haze Program  
Chapter 74:36.21

The following comment is offered by Otter Tail Power Company as operating agent for Big Stone Plant. Big Stone Plant is co-owned by NorthWestern Corporation d/b/a NorthWestern Energy, Montana-Dakota Utilities Co. A Division of MDU Resources Group, Inc., and Otter Tail Power Company, a wholly owned subsidiary of Otter Tail Corporation.

Otter Tail suggests the following clarifying revision to ARSD 74:36:21:11:

**74:36:21:11. Permit modification required for BART determination.** The owner or operator of a BART-eligible source shall submit an application in accordance with § 74:36:20 ~~to modify its operations~~ to include the controls, emission limits, monitoring, recordkeeping, and reporting requirements identified in the BART determination and approved by the department ~~in accordance with § 74:36:20.~~

Thank you for your consideration of our comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Graumann", is written over a white background.

Terry Graumann  
Manager, Environmental Services

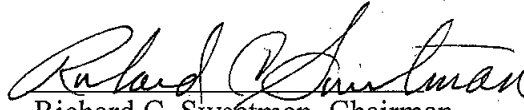
**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**CERTIFICATE**

I, Richard C. Sweetman, hereby certify that I am a duly appointed member and the duly elected chair of the Board of Minerals and Environment and that the attached instruments are full, true, and correct copies of the following rules adopted by the Board of Minerals and Environment on September 15, 2010:

The proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional Haze Program

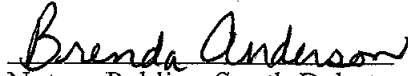
I further certify that SDCL 1-26-4 and 1-26-6 were complied with in the adoption of these rules. These rules will become effective twenty days after filing with the Secretary of State.

  
Richard C. Sweetman, Chairman,  
Board of Minerals and Environment

Subscribed and sworn to

before me this 15 day

of Sept., 2010.

  
Notary Public - South Dakota

(Seal)

My Commission expires

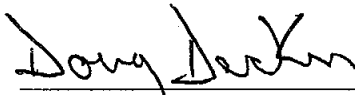
\_\_\_\_\_, 20\_\_\_\_.  
**BRENDA ANDERSON, Notary Public**  
**My Commission Expires**  
**October 26, 2010**

**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**APPROVAL OF RULES**

Following a public hearing held on September 15, 2010, the following rule revisions, attached, are approved and will become effective twenty days after filing with the Secretary of State:

The proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional Haze Program

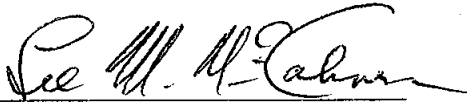
  
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LEGISLATIVE RESEARCH COUNCIL  
(for legality and for form and style)


Date 11/8/2010

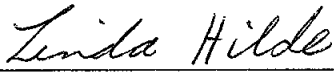
BOARD OF MINERALS AND ENVIRONMENT

Date 9-15-2010


  
\_\_\_\_\_  
Richard C. Sweetman, Chairman


  
\_\_\_\_\_  
Lee M. McCahren, Vice Chairman

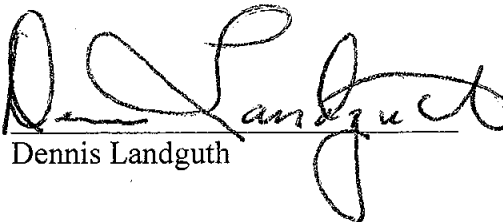
  
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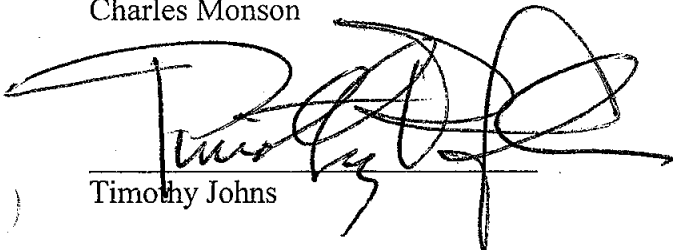
  
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Linda Hilde

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Robert Duxbury

  
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Glenn Blumhardt

  
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Charles Monson

  
\_\_\_\_\_  
Dennis Landguth

  
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Timothy Johns

## ARTICLE 74:36

### AIR POLLUTION CONTROL PROGRAM

#### Chapter

- 74:36:01 Definitions.
- 74:36:02 Ambient air quality.
- 74:36:03 Air quality episodes.
- 74:36:04 Operating permits for minor sources.
- 74:36:05 Operating permits for Part 70 sources.
- 74:36:06 Regulated air pollutant emissions.
- 74:36:07 New source performance standards.
- 74:36:08 National emission standards for hazardous air pollutants.
- 74:36:09 Prevention of significant deterioration.
- 74:36:10 New source review.
- 74:36:11 Performance testing.
- 74:36:12 Control of visible emissions.
- 74:36:13 Continuous emission monitoring systems.
- 74:36:14 Variances, Repealed.
- 74:36:15 Open burning, Transferred or Repealed.
- 74:36:16 Acid rain program.
- 74:36:17 Rapid City street sanding and deicing.
- 74:36:18 Regulations for state facilities in the Rapid City area.



74:36:19 Mercury budget trading program.

74:36:21 Regional haze program.

## CHAPTER 74:36:21

### REGIONAL HAZE PROGRAM

#### Section

- 74:36:21:01 Applicability.
- 74:36:21:02 Definitions.
- 74:36:21:03 Existing stationary facility defined.
- 74:36:21:04 Visibility impact analysis.
- 74:36:21:05 BART determination.
- 74:36:21:06 BART determination for a BART-eligible coal-fired power plant.
- 74:36:21:07 Installation of controls based on visibility impact analysis or BART determination.
- 74:36:21:08 Operation and maintenance of controls.
- 74:36:21:09 Monitoring, recordkeeping and reporting.
- 74:36:21:10 Permit to construct.
- 74:36:21:11 Permit modification required for BART determination.
- 74:36:21:12 Federal land manager notification and review.

**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 98<sup>th</sup> percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

(8) "Mandatory Class I federal area," any area identified in 40 C.F.R. § 81, Subpart D (July 1, 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.

**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**AFFIDAVIT**

I, Rick Boddicker, hereby certify that on October 27, 2010, I mailed a full, true, and correct copy of the following documents to the members of the Interim Rules Review Committee, listed below, at their respective post office addresses and/or electronic mail addresses:

- a. A copy of the addition to the Administrative Rules of South Dakota, Article 74:36:21 – Regional Haze Program, adopted by the Board of Minerals and Environment on September 15, 2010;
- b. A copy of the comments received during the public notice;
- c. A copy of the minutes for the public hearing;
- d. A copy of the small business impact statement; and
- e. A copy of the fiscal note.

The Honorable David Lust  
State Representative  
PO Box 8045  
Rapid City, South Dakota 57709-8045  
dlust@gpgnlaw.com

The Honorable Jim Hundstad  
State Senator  
sen.hundstad@state.sd.us  
[ratrace@nrctv.com](mailto:ratrace@nrctv.com)

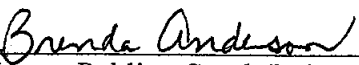
The Honorable Jean M. Hunhoff, Vice Chair  
State Senator  
2511 Mulligan Drive  
Yankton, South Dakota 57078  
JHunhoff@avera.org


The Honorable Roger W. Hunt, Chair  
State Representative  
PO Box 827  
Brandon, South Dakota 57005-0827  
huntrog7@alliancecom.net

The Honorable Mike Vehle  
State Senator  
132 N Harmon Drive  
Mitchell, South Dakota 57301  
[mvehle@mit.midco.net](mailto:mvehle@mit.midco.net)

The Honorable Peggy Gibson  
State Representative  
1010 Valley View Court  
Huron, South Dakota 57350-4221  
[peggygibson@hotmail.com](mailto:peggygibson@hotmail.com)

Subscribed and sworn to  
before me this 27 day  
of October, 2010.

  
Notary Public - South Dakota

  
Rick Boddicker

(Seal)

My Commission expires

**BRENDA ANDERSON, Notary Public**  
My Commission Expires  
October 26, 2016

**Boddicker, Rick**

---

**From:** Boddicker, Rick  
**Int:** Wednesday, October 27, 2010 10:46 AM  
**To:** Senator Hundstad, Jim; 'rtrace@nrctv.com'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program



1 743621\_Regional  
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2 Sierra Club  
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3 Otter Tail  
comments.pdf (27 ..



4 EPA  
comments.pdf (3 MB



5 public hearing  
minutes.pdf (...



6 Small Business  
Impact.pdf (4...



7 Fiscal Note.pdf  
(76 KB)

October 27, 2010

The Honorable Jim Hundstad  
State Senator

Dear Senator Hundstad:

Please find attached a copy of the following documents:

1. A copy of the addition to the Administrative Rules of South Dakota, Article 74:36:21 - Regional Haze Program, adopted by the Board of Minerals and Environment on September 15, 2010;
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3. A copy of the minutes for the public hearing;
4. A copy of the small business impact statement; and
5. A copy of the fiscal note.

If you have any questions, please contact me at (605) 773-3151.

Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Attachments



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 27, 2010

The Honorable David Lust  
State Representative  
PO Box 8045  
Rapid City, South Dakota 57709-8045

Dear Representative Lust:

Please find enclosed a copy of the following documents:

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If you have any questions, please contact me at (605) 773-3151.

Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Enclosures

## Boddicker, Rick

---

**From:** Boddicker, Rick  
**Int:** Wednesday, October 27, 2010 10:45 AM  
**To:** 'dlust@gpnlaw.com'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program



1 743621\_Regional  
Haze\_Final.d...



2 Sierra Club  
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3 Otter Tail  
comments.pdf (27...



4 EPA  
comments.pdf (3 MB



5 public hearing  
minutes.pdf (...



6 Small Business  
Impact.pdf (4...



7 Fiscal Note.pdf  
(79 KB)

October 27, 2010

The Honorable David Lust  
State Representative  
PO Box 8045  
Rapid City, South Dakota 57709-8045

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Senior Environmental Scientist  
Air Quality Program

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**DEPARTMENT of ENVIRONMENT  
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[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 27, 2010

The Honorable Peggy Gibson  
State Representative  
1010 Valley View Court  
Huron, South Dakota 57350-4221

Dear Representative Gibson:

Please find enclosed a copy of the following documents:

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Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Enclosures

## Boddicker, Rick

---

**From:** Boddicker, Rick  
**Int:** Wednesday, October 27, 2010 10:47 AM  
**To:** 'peggygibson@hotmail.com'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program



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4 EPA  
comments.pdf (3 MB



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minutes.pdf (...



6 Small Business  
Impact.pdf (4...



7 Fiscal Note.pdf  
(76 KB)

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Senior Environmental Scientist  
Air Quality Program

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 27, 2010

The Honorable Jean M. Hunhoff  
State Senator  
2511 Mulligan Drive  
Yankton, South Dakota 57078

Dear Senator Hunhoff:

Please find enclosed a copy of the following documents:

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Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Enclosures

**Boddicker, Rick**

---

**From:** Boddicker, Rick  
**Sent:** Wednesday, October 27, 2010 10:45 AM  
**To:** 'jHunhoff@avera.org'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program



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comments.pdf (10...



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October 27, 2010

The Honorable Mike Vehle  
State Senator  
132 N Harmon Drive  
Mitchell, South Dakota 57301

Dear Senator Vehle:

Please find enclosed a copy of the following documents:

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3. A copy of the minutes for the public hearing;
4. A copy of the small business impact statement; and
5. A copy of the fiscal note.

If you have any questions, please contact me at (605) 773-3151.

Sincerely,

A handwritten signature in black ink that reads "Rick Boddicker".

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Enclosures

## Boddicker, Rick

---

**From:** Boddicker, Rick  
**Sent:** Wednesday, October 27, 2010 10:45 AM  
**To:** 'mvehle@mit.midco.net'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program



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Air Quality Program

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October 27, 2010

The Honorable Roger W. Hunt, Chair  
State Representative  
PO Box 827  
Brandon, South Dakota 57005-0827

Dear Representative Hunt:

Please find enclosed a copy of the following documents:

1. A copy of the addition to the Administrative Rules of South Dakota, Article 74:36:21 – Air Pollution Control Program, adopted by the Board of Minerals and Environment on September 15, 2010;
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Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Enclosures

**Boddicker, Rick**

---

**From:** Boddicker, Rick  
**Sent:** Wednesday, October 27, 2010 10:46 AM  
**To:** 'huntrog7@alliancecom.net'  
**Subject:** Addition to ARSD 74:36 - New Chapter 74:36:21 - Regional Haze Program

 1 743621\_Regional Haze\_Final.d...  
 2 Sierra Club comments.pdf (10...omments.pdf  
 3 Otter Tail (27 ...omments.pdf  
 4 EPA (3 MB  
 5 public hearing minutes.pdf (...  
 6 Small Business Impact.pdf (4...  
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October 27, 2010

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Sincerely,

Rick Boddicker  
Senior Environmental Scientist  
Air Quality Program

Attachments



# Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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**Three hundred ninth meeting  
Wednesday  
November 17, 2010**

**Room 414  
State Capitol  
Pierre, South Dakota**

The three hundred ninth meeting of the Rules Review Committee was called to order by Chair Representative Roger Hunt at 10:04 a.m. CST, November 17, 2010, in Room 414 at the State Capitol, Pierre, South Dakota and via the Digital Dakota Network (DDN) at the following locations: Northern State University, 1200 S. Jay St., Room Lib 117, Aberdeen, South Dakota; Department of Transportation, 901 Dakota St., Huron, South Dakota; Mitchell Technical Institute, 1800 E. Spruce, Room TC 155, Mitchell, South Dakota; Department of Transportation, 2300 Eglin St., Rapid City, South Dakota; University Center, 2205 Career Ave., Room 282 S, Sioux Falls, South Dakota; and Department of Transportation, 1306 W. 31<sup>st</sup> St., Yankton, South Dakota.

A quorum was determined with the following members answering the roll call: Senators James Hundstad and Jean Hunhoff (Vice-chair); and Representatives Peggy Gibson, Roger Hunt (Chair), and David Lust. Senator Mike Vehle joined the meeting at 10:06 a.m. All members appeared via the DDN. Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

### **Approval of Minutes**

*Representative Gibson moved, seconded by Representative Lust, that the minutes of the September 28, 2010, meeting be approved. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

### **Rules Reviewed**

**Bureau of Administration** – Amend rules to update statutory citations related to the requirement that certain state publications bear an inscription listing the publisher, the number of copies published, and the approximate cost of publication per copy; and amend rules to update requirements related to the fee for placement on the state bidders list, and to establish specifications and requirements for state government purchases of environmentally preferable products.

**Mr. Jeff Holden** reviewed the proposed rules.

*Senator Hunhoff moved, seconded by Representative Gibson, to approve the rules proposed by the Bureau of Administration. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Public Safety: 911 Coordination Board** – Adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times.

**Mr. Michael Houdyshell** reviewed the background and fiscal note regarding the proposed rule.

*Representative Gibson moved, seconded by Senator Vehle, to approve the rule proposed by the Department of Public Safety: 911 Coordination Board. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Health: Board of Dentistry** – Amend rules to change from regulating by the modality of the delivery of the sedative or anesthetic to regulating based on the level of sedation; define four levels of sedation – minimal, moderate, deep, and general anesthesia; and require dentists who are not specialists to disclaim as much if they advertise services in a recognized specialty area and places certain requirements on advertising in non-recognized specialty areas.

**Ms. Brittany Novotny**, Pierre, Executive Secretary, and **Dr. Roger Wilson**, Rapid City, Board Member, reviewed the proposed rules.

*Representative Gibson moved, seconded by Representative Lust, to approve the rules proposed by the Department of Health: Board of Dentistry. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Human Services: Division of Rehabilitation Services** – Amend Interpreters for the Deaf rules to add a complaint process against a certified interpreter, provide for notice to the interpreter of the complaint, add an investigation process and timeline; will require any interpreter registering with the Division to adhere to the Code of Professional Conduct as adopted by the Registry of Interpreters for the Deaf; allows an interpreter with an EIPA assessment score of 3.5 or higher who has failed to register within 12 months of the renewal date to register under the initial registration process providing they submit the continuing education as required under the annual registration process; combines initial registration for nationally certified interpreters and the interpreters registering with the EIPA assessment score under one rule; combines annual registration for the currently certified South Dakota certified interpreter, an interpreter registering with an EIPA assessment score and a nationally certified interpreter under one rule; changes the due date



of annual registration to August 31 of each year for all interpreters; changes the continuing education contact hours to 80 hours in a four year maintenance cycle for South Dakota certified interpreters or an interpreter registering with an EIPA assessment score; provides for a modified first time cycle for an interpreter registering with an EIPA assessment score and starts all of the currently certified South Dakota interpreter cycles to begin on September 1, 2011; allows for an extension of continuing education maintenance under certain circumstances; amend Cochlear Implants rules to amend the eligibility requirements for funding of cochlear implants by the Division of Rehabilitation Services by removing the current requirement that the applicant must be five years old or if less than 21 have one implant before the age of five or a documented progressive hearing loss that led to deafness after speech and language were developed and by changing the requirement to the applicant be less than 21 years of age at the time of application; amends the application process to reflect that the requirement for deafness after speech and language development is no longer required; and amends the definition of an applicant to reflect the age change to less than 21 years of age.

**Mr. Grady Kickul** reviewed the proposed rules. Interpreter services were provided by Ms. Julie Paluch.

*Senator Hundstad moved, seconded by Representative Gibson, to approve the rules proposed by the Department of Human Services: Division of Rehabilitation Services. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Environment and Natural Resources: Environmental Services** – Adopt rules to implement South Dakota's Regional Haze Program for the two Class I areas (Badlands and Wind Cave National Parks).

**Mr. Rick Boddicker** and **Mr. Kyrik Rombough** reviewed the proposed rules.

*Senator Hundstad moved, seconded by Representative Lust, to approve the rules proposed by the Department of Environment and Natural Resources: Environmental Services. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Social Services: Division of Adult Services and Aging** – Adopt Hospice Services rules to add definitions, identify eligibility requirements for providers and recipients, outline covered service limitations, define notice requirements and reimbursement policy, and clarify claim submission requirements.

**Ms. Laura Ringling** and **Mr. Larry Iverson** reviewed the proposed rules.

*Senator Hunhoff moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Social Services: Division of Adult Services and Aging. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Agriculture: South Dakota Value Added Finance Authority** – Amend rules to increase the bond amount for the Beginning Farmer Bond Program to purchase agricultural land and make minor changes to the qualification of the program.

**Ms. Terri Labrie Baker** reviewed the proposed rules.

*Senator Vehle moved, seconded by Representative Gibson, to approve the rules proposed by the Department of Agriculture: South Dakota Value Added Finance Authority. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Revenue and Regulation: Division of Insurance** – Amend rules to prohibit insurers from discouraging applications for health insurance during open enrollment, revise the standards for internal appeals of health insurance claim determinations, establish standards for the coverage of preventive services in health insurance, require the extension of health insurance coverage for children who have not reached the age of 26, require access to certain health care specialists in health insurance, set standards for health insurance compensation with respect to emergency care, restrict the ability of health insurers to rescind coverage, prohibit the application of annual and lifetime limits in health insurance policies in certain situations, and provide for open enrollment in health insurance for those that have not reached the age of 19.

**Mr. Randy Moses** reviewed the rules.

*Representative Gibson moved, seconded by Senator Vehle, to approve the rules proposed by the Department of Revenue and Regulation: Division of Insurance. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

**Department of Revenue and Regulation: Division of Securities** – Amend Broker-Dealer and Agent rules to change the use of NASD to FINRA due to the merger of these two organization; clarify the series 63 examination lapse of registration; provide for any SEC required fiduciary standards; add senior specific professional designations; and exempt certain business brokers from broker-dealer registration; amend Registration Requirements and Procedures rules to clarify existing rules and exempt certain advertising in public offerings prior to complete registration; amend Investment Adviser rules to repeal all existing rules and replace those with model rules that coordinate with the Uniform Securities Act of 2002 and include the new SEC ADV format; and provide for an exemption to registration for certain investments advisers; and amend Notice Filings for Covered Securities and Registration Exemptions rules to clarify how to calculate the number of purchasers under ARSD 47-31B-202(14) and the use of this same exemption by out of state issuers; and define "isolated non-issuer."

**Ms. Erin Menkhaus** and **Mr. Gail Sheppick** reviewed the proposed rules.

*Representative Hunt moved, seconded by Senator Hunhoff, to approve the rules proposed by the Department of Revenue and Regulation: Division of Securities. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Gibson, Hundstad, Hunhoff, Hunt, Lust, and Vehle.*

Senator Hunhoff was excused from the meeting at 12:48 p.m.

**Department of Revenue and Regulation: Lottery Commission** – Amend rules to adopt the latest amended game rules of the Multi-State Lottery Association for the Mega Millions Game, including the Megaplier Special Promotion Game rules, and the Powerball Game, including the Power Play rules, as the rules of the South Dakota Lottery for the games.

**Mr. Norm Lingle** reviewed the proposed rules.

*Representative Gibson moved, seconded by Senator Vehle, to approve the rules proposed by the Department of Revenue and Regulation: Lottery Commission. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hundstad, Hunt, Lust, and Vehle. Member excused: Hunhoff.*

**Department of Revenue and Regulation: South Dakota Real Estate Commission** – Amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state.

**Ms. Dee Jones Noordermeer** reviewed the proposed rules.

*Representative Gibson moved, seconded by Representative Lust, to approve the rules proposed by the Department of Revenue and Regulation: South Dakota Real Estate Commission. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hundstad, Hunt, Lust, and Vehle. Member excused: Hunhoff.*

**Department of Education: Board of Education** – Amend rules to provide valid and reliable testing procedures for any school district choosing to write their own end-of-course exams.

**Mr. Wade Pogany** reviewed the proposed rules.

*Senator Hundstad moved, seconded by Representative Gibson, to approve the rules proposed by the Department of Education: Board of Education. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hundstad, Hunt, Lust, and Vehle. Member excused: Hunhoff.*

**Department of Game, Fish and Parks** – Amend License Forms and Fees rules to add a Custer State Park (CSP) "any mountain lion" hunting license and establish the fee for the license at \$300 and increase the fee for a regular statewide mountain lion hunting license from \$10 to \$20; amend a Hunting Requirements and Prohibited Methods rule to remove the prohibition against using dogs and electronic calls when hunting mountain lions; amend CSP Restrictions rules to establish an eligibility requirement prohibiting a person who received a CSP "any mountain lion" license in any of the preceding nine years from applying for a license for the current CSP mountain lion season; and amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, number of resident licenses available, and increase the total mountain lion harvest limit outside of CSP from 40 to 45 mountain lions and increase the female harvest limit outside of CSP from 25 to 30 female mountain lions; limit residents to one mountain lion hunting license per year; and transfer language pertaining to the use of electronic calls in hunting mountain lions contained in the current mountain lion hunting season rule to the Hunting Requirements and Prohibited Methods Chapter; establish a new mountain lion hunting season within the fenced boundaries of CSP to take place from January 1 through March 31 of each year; establish the number of licenses available to state residents at 5 at a cost per license of \$300; and provide for other restrictions for the CSP mountain lion hunting license.

**Mr. Tony Leif** reviewed the proposed rules. He noted that the Game, Fish and Parks Commission decided to not allow the use of dogs when hunting mountain lions and the number of resident licenses and the cost per license for the CSP mountain lion season was changed.

*Senator Hundstad moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Game, Fish and Parks. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hundstad, Hunt, Lust, and Vehle. Member excused: Hunhoff.*

Representative Lust was excused from the meeting at 1:35 p.m.

**Department of Game, Fish and Parks** – Amend a Park Licenses rule to eliminate the Custer State Park "per person" temporary park entrance license and extend the Custer State Park temporary motorcycle park entrance license valid during the Sturgis Motorcycle Rally into a year round license; amend Camping Permits and Rules to increase the daily camping fee in all state park area campgrounds by \$2; increase park lodge fees by \$25; increase the fee to reserve a group picnic shelter from \$9 to \$20; and change the campground designation at West Bend and Randall Creek from modern to preferred based on campground occupancy rates; amend General Provisions (Fishing Seasons and Methods) rules to update the definition of the "Black Hills Trout Management Area;" add a nonresident youth fishing license and game fish spearing and archery certification permit and establish the fee for each; standardize ice fishing shelter removal dates statewide by aligning the date with the end of the spearing season; and authorize liberalized taking of lake herring along with smelt in the Missouri River and its impoundments and transfer this rule from the chapter on fish limits to the general provisions chapter; amend Fish Limits rules to standardize panfish limits statewide; change daily and possession limits for yellow perch on South

Dakota-Minnesota boundary waters to be consistent with South Dakota inland water changes and Minnesota border water regulations; and transfer the rule authorizing liberalized take of smelt from the fish limits rule to the general provisions rule and remove the rule which establishes special management waters for panfish; amend Spearing rules to change spearing dates for rough fish to allow spearing year round; change spearing dates for rough fish in South Dakota-Minnesota boundary waters to any time of the day or night from May 1 to the last Sunday in February, inclusive; and repeal the special rule pertaining to spearing of rough fish in certain northeastern South Dakota counties; amend a Hoop Nets and Setlines rule to remove toads as authorized bait for setlines and make leopard frogs the only authorized species of frogs that may be used as bait on tagged setlines; amend Bait rules to change the expiration date for bait dealer licenses to January 31 of the calendar year directly following the year for which the license was issued; add Interstate Lake to the list of waters closed to commercial taking of bait; and establish the physical location where bait dealers are required to keep their bait records available for inspection by department personnel; and amend Private Fish Hatcheries rules to add language giving the department flexibility to exempt newly created waters under private fish hatchery licenses from payment of the one-time inspection fee; change the expiration date for private hatchery licenses to January 31 of the calendar year directly following the year for which the license was issued; establish the physical location where private hatchery licenses are required to keep their hatchery records available for inspection by department personnel; and add rule language which specifies when payments are due for fish health inspections.

**Mr. Doug Hofer** and Mr. Leif reviewed the proposed rules.

*Representative Hunt moved, seconded by Senator Hundstad, to approve the rules proposed by the Department of Game, Fish and Parks. Motion prevailed on a roll call vote with 4 ayes, 2 excused. Members voting aye: Gibson, Hundstad, Hunt, and Vehle. Members excused: Hunhoff and Lust.*

#### **Draft Legislation/Staff Report**

**Mr. Doug Decker** commented that the agenda item concerning draft legislation was included to provide an opportunity for legislators to offer any changes to the proposed draft.

#### **Next Meeting**

The next meeting of the Interim Rules Review Committee will be held on Monday, December 20, 2010.

#### **Adjournment**

*Representative Gibson moved, seconded by Senator Vehle, that the meeting be adjourned. Motion prevailed on a voice vote.*

Chair Hunt adjourned the meeting at 2:12 p.m.




**IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES**

**CERTIFICATE**

I, Richard C. Sweetman, hereby certify that I am a duly appointed member and the duly elected chair of the Board of Minerals and Environment and that the attached instruments are full, true, and correct copies of the following rules adopted by the Board of Minerals and Environment on September 15, 2010:

The proposed amendments to article 74:36 by adding chapter 74:36:21 – Regional Haze Program

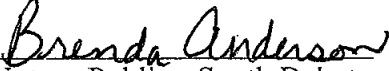
I further certify that SDCL 1-26-4 and 1-26-6 were complied with in the adoption of these rules. These rules will become effective twenty days after filing with the Secretary of State.

  
Richard C. Sweetman, Chairman,  
Board of Minerals and Environment

Subscribed and sworn to

before me this 15 day

of Sept., 2010.

  
Notary Public - South Dakota

(Seal)

My Commission expires

\_\_\_\_\_, 20\_\_\_\_.  
**BRENDA ANDERSON, Notary Public**  
**My Commission Expires**  
**October 26, 2010**

Filed this 17<sup>th</sup> day of

November, 2010

  
SECRETARY OF STATE