

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 proposal for the Board of Minerals and Environment to adopt amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17
- (2) all materials incorporated by reference

is admitted at Pierre, South Dakota, this 13th day of July, 2011.



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 proposal for the Board of Minerals and Environment to adopt amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17

Dated this 13th day of July, 2011.



Secretary of Department of Environment and Natural Resources

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- (1) the proposal for the Board of Minerals and Environment to adopt amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17
- (2) the Secretary of the Department of Environment and Natural Resources' Admission of Service and Waiver of Waiting Period;
- (3) the notice of hearing;
- (4) the fiscal note;
- (5) the Small Business Impact Statement; and
- (6) all materials incorporated by reference

is admitted at Pierre, South Dakota, this 14th day of July, 2011.


Kris Schneider
Legislative Research Council

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

Phone Number: 605-773-3151

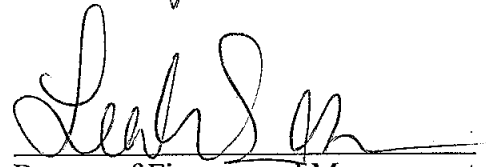
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- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) the Small Business Impact Statement Form

is hereby admitted at Pierre, South Dakota, this 14th day of July, 2011.


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 & Solid Waste

PROPOSED RULE: Amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17

Hearing Date: August 18, 2011

FISCAL IMPACT STATEMENT: The rule revisions for the Regional haze program will have no additional impact to any entities. The repealing of the Medical Waste Rules and the amendments to the Solid Waste rules with also have no impact on any entities. No additional staffing or resources by DENR are needed.

FISCAL NOTE SUMMARY: List state agencies of local governmental subdivisions affected:
None

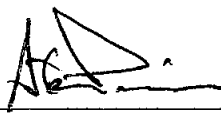
COST INCREASES (DECREASES)

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

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business :		
TOTAL	\$ 0	\$ 0

APPROVED _____


 Signature Department Secretary

DATE

7/13/11

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 of Environment and Natural Resources is proposing that the Board of Minerals and Environment adopt amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17. The department reviewed the types of businesses the new changes would affect and found that there will be no impact to small businesses in South Dakota.
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:

7/13/11

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.

74:36:21:02. 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 98th percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

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

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

(10) "30-day rolling average," shall be expressed as pounds per million Btus and pounds per hour and calculated in accordance with the following procedures:

(a) Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(b) Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(c) Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(d) For pounds per million Btus, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total heat input during the 30-day operating days;

(e) For pounds per hour, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total hours operated during the 30-day operating days.

A new 30-day rolling average shall be calculated for each new operating day. Each 30-day rolling average shall represent all emissions, including emissions that occur during periods of startup, shutdown and malfunction.

(11) "Operating day," means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted the entire 24-hour period.

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, and malfunction;

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

(5) Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup, and shutdown, and malfunction; and

(6) Nitrogen oxide emissions in excess of 0.10 pounds per million Btus, which ~~does not include~~ includes periods of startup, ~~and shutdown, and malfunction.~~

Compliance with the PM10 emission limits shall be based on an annual stack performance test using the performance testing methods in § 74:36:11:01 and using the average of three 1-hour test runs. Compliance with the sulfur dioxide and nitrogen oxide emission limits shall be based on using continuous emission monitoring systems and a 30-day rolling average.

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

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.~~ The owner or operator of a BART-eligible source shall install, certify, maintain, calibrate and operate a continuous emission monitoring system for sulfur dioxide and nitrogen oxide in accordance with 40 C.F.R. Part 75 (July 1, 2009), except the recordkeeping and reporting requirements for the continuous emission monitoring systems shall be in accordance with 40 C.F.R. § 60.7 (July 1, 2009).

Monitoring and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source shall consist of at least the following: 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).

(1) All emissions monitoring and analysis procedures, alternative approved methods or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;

(2) As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;

(3) Documentation of the following:

(a) The date, place, and time of sampling or measurements;

(b) The date or dates analyses were performed;

(c) The company or entity that performed the analyses;

(d) The analytical techniques or methods used;

(e) The results of such analyses; and

(f) The operating conditions as existing at the time of sampling or measurement;

(4) Recordkeeping and reporting requirements that comply with the following:

(a) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and

(b) Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions, the probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(5) Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

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

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

NOTICE OF PUBLIC HEARING

The Board of Minerals and Environment will hold a public hearing in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:15 a.m., to consider the proposed changes: amendments to chapter 74:36:21 – Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.

The effect of the proposed changes to the Regional Haze Program are to revise the emission limits for sulfur dioxide and nitrogen oxides to include periods of startup and shutdown for coal fired power plants such as Ottertail Power Company's Big Stone I facility. Compliance with the emission limits will be based on a 30-day rolling average. The proposed changes will also define a "30-day rolling average" and "operating day" for calculating emission rates. In addition the proposed changes will revise monitoring, recordkeeping, reporting, and other miscellaneous requirements. The reason for the proposed changes is to incorporate changes recommended by EPA, which will allow South Dakota to implement its Regional Haze Program.

The repeal of the Medical Waste rules is being proposed because EPA has promulgated medical waste regulations for air quality and maintaining this air quality rule is unwarranted.

The effect of the proposed changes to the Solid Waste rules is to include definitions related to medical waste which are being repealed in the Medical Waste rules.

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.

South Dakota's State Implementation Plan was submitted to EPA for adopting a Regional Haze Program establishing measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan is being revised to incorporate changes recommended by EPA, which includes a review of an additional technology, updated modeling results, and other miscellaneous recommendations by EPA.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or revisions to South Dakota's State Implementation Plan for its Regional Haze Program 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 Scientist III
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 August 17, 2011, 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 at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. 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 _____.

Magedanz, Lita

m: Magedanz, Lita
at: Friday, July 15, 2011 10:31 AM
To: AberdeenNews-Display (aan-legals@aberdeennews.com); BrookingsDisplay (bjensen@brookingsregister.com); HuronPlainsman-Display (rnewman.plainsman@midconetwork.com); Madison-Display (terra@madisondailyleader.com); MitchellDailyRepublic_Display (khenglefelt@mitchellrepublic.com); CapitolJournal-Display (legals@capjournal.com); Brandyn Crawford (legals@rapidcityjournal.com); SiouxFallsArgusLeader_Display (nwebb@argusleader.com); SpearfishBHPioneer_Display (dru@bhpioneer.com); WatertownPublicOpinion_Display (loni.anderson@thepublicopinion.com); YanktonDailyPress&Dakota_Display (heather.heimes@yankton.net)
Cc: Boddicker, Rick; Regynski, Barb; Rilling, Holly
Subject: FW: NOTICE OF PUBLIC HEARING.doc
Attachments: All Display Letters.doc; NOTICE OF PUBLIC HEARING.doc
Importance: High

Dear Sir or Madam:

Please find the attached cover letter and public notice to be published in your paper as a DISPLAY AD. Please reply to this e-mail upon receipt to verify that you have received it. 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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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Sincerely,

Lita L. Magedanz
Senior Secretary
Air Quality Program

Enclosure(s)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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

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Sincerely,

Lita L. Magedanz
Senior Secretary
Air Quality Program

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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

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Sincerely,

Lita L. Magedanz
Senior Secretary
Air Quality Program

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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

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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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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:

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

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Sincerely,

Lita L. Magedanz
Senior Secretary
Air Quality Program

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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 21st day of July, 2011.

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

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Sincerely,

Lita L. Magedanz
Senior Secretary
Air Quality Program

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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

Dear Sir or Madam:

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Division of Environmental Services
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Pierre, South Dakota 57501

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Senior Secretary
Air Quality Program

Enclosure



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and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2011

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

Dear Sir or Madam:

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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

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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

Exhibit "A"

ss

County of Brookings

Laura Johnson 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

Display legal - Notice of Hearing

same was published, is hereto attached marked Exhibit said newspaper for 1 times, to-wit:

July 21, 2011

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 ninety six dollars, \$396.00



Laura Johnson

Subscribed and sworn to before me this

22nd day of

July

2011

Katie Cobb

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

NOTICE OF PUBLIC HEARING

The Board of Minerals and Environment will hold a public hearing in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:15 a.m., to consider the proposed changes: amendments to chapter 74:36:21 – Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09; repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.

The effect of the proposed changes to the Regional Haze Program are to revise the emission limits for sulfur dioxide and nitrogen oxides to include periods of startup and shutdown for coal fired power plants such as Ottertail Power Company's Big Stone I facility. Compliance with the emission limits will be based on a 30-day rolling average. The proposed changes will also define a "30-day rolling average" and "operating day" for calculating emission rates. In addition the proposed changes will revise monitoring, recordkeeping, reporting, and other miscellaneous requirements. The reason for the proposed changes is to incorporate changes recommended by EPA, which will allow South Dakota to implement its Regional Haze Program.

The repeal of the Medical Waste rules is being proposed because EPA has promulgated medical waste regulations for air quality and maintaining this air quality rule is unwarranted.

The effect of the proposed changes to the Solid Waste rules is to include definitions related to medical waste which are being repealed in the Medical Waste rules.

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.

South Dakota's State Implementation Plan was submitted to EPA for adopting a Regional Haze Program establishing measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan is being revised to incorporate changes recommended by EPA, which includes a review of an additional technology, updated modeling results, and other miscellaneous recommendations by EPA.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or revisions to South Dakota's State Implementation Plan for its Regional Haze Program 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 Scientist III
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 August 17, 2011, 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 at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. 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. Pimer
Secretary

RECEIVED

AUG 05 2011

AIR QUALITY PROGRAM

Mitchell Daily Republic

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:

7-21-11 2x9.5 Display Advertisement-Notice of Public Hearing

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: \$331.55

Signed: Annette Kroger

Subscribed and sworn to before me this 28th day of July 2011

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

NOTICE OF PUBLIC HEARING

The Board of Minerals and Environment will hold a public hearing in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:15 a.m., to consider the proposed changes: amendments to chapter 74:36:21 – Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.

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

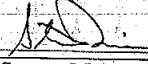
Rick Boddicker, Environmental Scientist III
South Dakota Department of Environment and Natural Resources
523 East Capitol, Joe Foss Building
Pierre, South Dakota 57501

Written comments must be received by close of business on August 17, 2011, 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 at that time to include or exclude matters that are described in this notice.

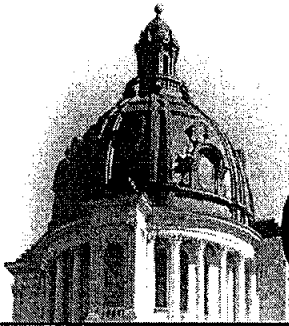
Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the department at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number 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 \$331.55



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 Notice of Public Hearing

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>July 21</u>	<u>20 11</u>	_____	<u>20</u>
_____	<u>20</u>	_____	<u>20</u>
_____	<u>20</u>	_____	<u>20</u>
_____	<u>20</u>	_____	<u>20</u>
_____	<u>20</u>	_____	<u>20</u>

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: \$260.01.

Signed: Ona Arnold

subscribed and sworn to before me this 2 day of August 20 11

M. L. Baker

Notary Public in and for the County of Hughes, South Dakota.
My Commission expires 2-19, 20 15.

NOTICE OF PUBLIC HEARING

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The effect of the proposed changes to the Solid Waste rules is to include definitions related to medical waste which are being repealed in the Medical Waste rules.

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.

South Dakota's State Implementation Plan was submitted to EPA for adopting a Regional Haze Program establishing measures South Dakota will take to achieve natural visibility conditions at its two Class I areas by 2064. South Dakota's State Implementation Plan is being revised to incorporate changes recommended by EPA, which includes a review of an additional technology, updated modeling results, and other miscellaneous recommendations by EPA.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments and/or revisions to South Dakota's State Implementation Plan for its Regional Haze Program 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 Scientist III
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 August 17, 2011, 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 at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. 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: <https://denr.sd.gov/denr/air/programs>

Steven M. Pirner
Secretary

Published once at the total approximate cost of \$260.01.

Rich

**Watertown Public Opinion
AFFIDAVIT OF PUBLICATION**

RECEIVED

JUL 29 2011

AIR QUALITY
PROGRAM

STATE OF SOUTH DAKOTA

COUNTY OF CODINGTON } ss

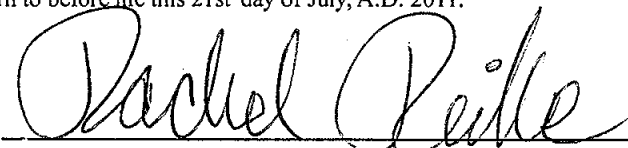
Mark S. Roby, being duly sworn says: That Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that affiant 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 21st day of July 2011,

that the full amount of the fee charged for publishing the same, including a \$5.00 affidavit fee, to-wit, the sum of \$325 insures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division 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.



Subscribed and sworn to before me this 21st day of July, A.D. 2011.

(Seal) 
Notary Public, South Dakota

My commission expires June 28, 2017

Watertown Public Opinion AFFIDAVIT OF PUBLICATION

NOTICE OF PUBLIC HEARING

The Board of Minerals and Environment will hold a public hearing in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:15 a.m., to consider the proposed changes: amendments to chapter 74:36:21 - Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 - Medical Waste, adopting amendments to article 74:27 - Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.

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Pierre, South Dakota 57501

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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/ac/airprog.aspx>

Steven M. Pirner
Secretary

Published once at the total approximate cost of

325.00

318289

Rapid City

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington SS:

Brandyn Crawford being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, 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 there of being on the Sunday day of July that the fees charged for the publication there of are one hundred seventy dollars and seven cents.

Display Ad

Brandyn R. Crawford

Subscribed and sworn to before me this July second day of July, 2011.



Lorraine K. Cummings

 Notary public

Dec. 18, 2016
 My commission expires

NOTICE OF PUBLIC HEARING

The Board of Minerals and Environment will hold a public hearing in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:15 a.m., to consider the proposed changes: amendments to chapter 74:36:21 – Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17, and revisions to South Dakota's Regional Haze State Implementation Plan.

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

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

/s/Steven M. Pirner
Secretary

RECEIVED

Black Hills Pioneer

JUL 26 2011

AIR QUALITY PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, 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:

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 21st day of July, 2011, and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 315.00 insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, 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.

~~_____~~
Subscribed and sworn to before me this 22nd day of July, 2011

Adith Richards

Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2016

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

Steven M. Pirner
Secretary

Published once at the total approximate cost of \$315.00.

CUSTOMER NUMBER:	078340	<h1>Argus Leader</h1>	
INVOICE NUMBER:	257220		
RUN DATES:	7/22, 2011	P.O. Box 677349, Dallas, TX 75267-7349	
		Amount	\$918.54

Dept of Environment & Natural Resources
 Air Quality Program
 Attn: Lita Magedanz
 523 E Capitol Avenue, Joe Foss Building
 Pierre, SD 57501

RECEIVED
JUL 25 2011
 AIR QUALITY PROGRAM

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION-

Customer Number: 078340
 Invoice Number: 257220

Dept of Environment & Natural Resources

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

Friday, the 22 day of July 2011,
 _____, the _____ day of _____ 2011
 _____, the _____ day of _____ 2011
 _____, the _____ day of _____ 2011
 _____, the _____ day of _____ 2011
 _____, the _____ day of _____ 2011
 _____, the _____ day of _____ 2011

and that \$918.54 was charged for publishing the same for display advertising.

Linda Schulte

Subscribed and sworn to before me 7/22/2011

July P. Lorenzer

 Notary Public, South Dakota

My Commission expires December 29, 2015

NOTICE OF PUBLIC HEARING

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

Steven M. Pirner
Secretary

Published once at the total approximate cost of \$918.54.

SP-0005722

AFFIDAVIT OF PUBLICATION

RECEIVED

JUL 25 2011

AIR QUALITY PROGRAM

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: Regional Haze Program

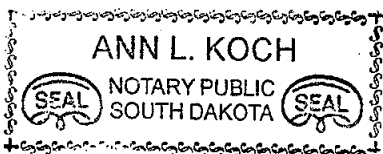
printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

- On Thursday, the 21st day of July, 2011;
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...;
On ... day of ... 20...

That \$ 178.50 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

Subscribed and sworn to before me this 22nd day of July, 2011



Ann L. Koch
Notary Public, Lake County, South Dakota

Publication Fees \$
Notary Fees \$
Total \$
Received Payment,

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South Dakota Department of Environment and Natural Resources
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Steven M. Pimer, Secretary
Department of Environment and Natural Resources

Published once at the total approximate cost of \$178.50.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Max Bass

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 # 1202906

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

Day for *1* successive *days*

The first publication being made on the *21* day of *July*, 2011

The second publication being made on the _____ day of _____, 2011.

The third publication being made on the _____ day of _____, 2011

The fourth publication being made on the _____ day of _____, 2011.

The fifth publication being made on the _____ day of _____, 2011.

The sixth publication being made on the _____ day of _____, 2011;

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 \$ *391.88*, 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.

Max Bass

Subscribed and sworn to before me this *21* day of *July*, 2011

Daily Circulation *16,500*

Eric Gelf

Notary Public, Brown County, SD.

SEAL

My commission expires March 20, 2013

RECEIVED

JUL 25 2011

AIR QUALITY PROGRAM

NOTICE OF PUBLIC HEARING

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

Steven M. Pimer
Secretary

Published once at the total approximate cost of \$391.88.

RECEIVED

JUL 22 2011

AIR QUALITY PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

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

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

GARY WOOD BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT HE IS THE PUBLISHER 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 Notice of Public Hearing

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 21st DAY OF July 2011 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$147.00 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: 7/21/2011

FILED ON: 7/21/2011

Gary Wood
SUBSCRIBED AND SWORN TO BEFORE ME THIS 21st DAY OF July 2011

Muriel R. Trout
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 6/11/2013

Public
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THE PUBLISHER
OF THIS PAPER
HEREBY CERTIFIES
THAT THE ABOVE
IS A TRUE AND
CORRECT COPY
OF THE ORIGINAL
FILED
JUL 21 2011
YANKTON

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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/qa/airprogr.aspx>

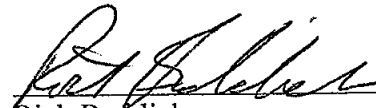
Steven M. Pimer
 Secretary

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**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 July 18, 2011, 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 18 day

of July, 2011.


Notary Public - South Dakota

(Seal)

My Commission expires

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 18, 2011

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, Chapter 74:36:21 – Regional haze program, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 and revisions to South Dakota's Regional Haze State Implementation Plan.

Enclosed is the public notice for the public hearing that will be held by the Board of Minerals and Environment on August 18, 2011 in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, at 10:15 a.m. The purpose of the public hearing is to receive and consider testimony on the adoption of the proposed revisions.

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/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,

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

Rick Boddicker
Environmental Scientist III
Air Quality Program

Enclosure

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**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	20	Department of Environment & Natural Resources
DIVISION	2	Environmental Services
PROGRAM		Air Quality & Solid Waste

PROPOSED RULE: Amendments to chapter 74:36:21 – Regional haze program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repeal article 74:35 – Medical Waste, and adopt amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17

Hearing Date: August 18, 2011

FISCAL IMPACT STATEMENT: The rule revisions for the Regional haze program will have no additional impact to any entities. The repealing of the Medical Waste Rules and the amendments to the Solid Waste rules will also have no impact on any entities. No additional staffing or resources by DENR are needed.

FISCAL NOTE SUMMARY: none

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
TOTAL	\$0	\$0
Local Subdivisions:		
TOTAL	\$0	\$0
Small Businesses		
TOTAL	\$0	\$0

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business:		
	\$0	\$0
TOTAL	\$0	\$0

APPROVED  Signature Department Secretary or Board or Commission Chairman

DATE

8/17/11

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made, 5) small business impact statement



Legislative Research Council

Rep. Charles M. Turbiville, Chair
Sen. Joni M. Cutler, Vice Chair

James Fry, Director
Doug Decker, Code Counsel

RECEIVED

AUG 4 2011

DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES,
SECRETARY'S OFFICE

August 3, 2011

Mr. Joe Nadenicek
South Dakota Department of Environment and Natural Resources
523 East Capitol Avenue
Pierre, South Dakota 57501

Dear Mr. Nadenicek:

The Board of Minerals and Environment has proposed the amendment or repeal of ARSD 74:27:07:01, 74:27:13:17, Chapter 74:35:01, Chapter 74:35:02, 74:36:21:02, 74:36:21:06, and 74:36:21:09 – Solid Waste, Medical Waste, and Regional Haze, which are scheduled for hearing on August 18, 2011. We have reviewed the proposed rules and approve them for legality.

This letter is based on a preliminary review of your rules. Attached are your rules edited for form and style pursuant to SDCL 1-26-6.5 and directions for submitting the final draft of the rules. If you have any questions, please don't hesitate to call me or the staff member who has reviewed your rule.

Sincerely yours,


Doug Decker
Code Counsel

DD:TM

Cc: Rick Boddicker, DENR

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.

74:36:21:02. 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 98th percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

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

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

(10) "30-day rolling average." ~~shall be~~ expressed as pounds per million Btus and pounds per hour and calculated in accordance with the following procedures:

(a) Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(b) Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(c) Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(d) For pounds per million Btus, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total heat input during the 30-day operating days;

(e) For pounds per hour, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total hours operated during the 30-day operating days.

A new 30-day rolling average shall be calculated for each new operating day. Each 30-day rolling average shall represent all emissions, including emissions that occur during periods of startup, shutdown, and malfunction; and

(11) “Operating day,” means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted the entire 24-hour period.

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, and malfunction;

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

(5) Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup, and shutdown, and malfunction; and

(6) Nitrogen oxide emissions in excess of 0.10 pounds per million Btus, which ~~does not include~~ includes periods of startup, ~~and shutdown, and malfunction.~~

Compliance with the PM10 emission limits shall be based on an annual stack performance test using the performance testing methods in § 74:36:11:01 and using the average of three 1-hour test runs. Compliance with the sulfur dioxide and nitrogen oxide emission limits shall be based on using continuous emission monitoring systems and a 30-day rolling average.

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

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.~~ The owner or operator of a BART-eligible source shall install, certify, maintain, calibrate, and operate a continuous emission monitoring system for sulfur dioxide and nitrogen oxide in accordance with 40 C.F.R. Part 75 (July 1, 2009), except the recordkeeping and reporting requirements for the continuous emission monitoring systems shall be in accordance with 40 C.F.R. § 60.7 (July 1, 2009).

Monitoring and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source shall consist of at least the following: 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)

(1) All emissions monitoring and analysis procedures, alternative approved methods, or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;

(2) As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;

(3) Documentation of the following:

(a) The date, place, and time of sampling or measurements;

(b) The date or dates analyses were performed;

(c) The company or entity that performed the analyses;

(d) The analytical techniques or methods used;

(e) The results of such analyses; and

(f) The operating conditions as existing at the time of sampling or measurement;

(4) Recordkeeping and reporting requirements that comply with the following:

(a) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and

(b) Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions, ^{the} the probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(5) Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

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

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

Excerpt of the Minutes from the
Board of Minerals and Environment Meeting
Matthew Environmental Education and Training Center
523 East Capitol
Pierre, South Dakota

August 18, 2011

CALL TO ORDER: Chairman Richard C. Sweetman called the meeting to order 10:00 a.m. CDT. Secretary Linda Hilde declared that a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Dennis Landguth, Linda Hilde, Timothy Johns, Bob Duxbury, and Glenn Blumhardt.

BOARD MEMBERS ABSENT: Chuck Monson and Pete Bullene.

OTHERS PRESENT: See attached attendance sheet.

PUBLIC HEARING TO AMEND ARSD 74:36:21 – REGIONAL HAZE PROGRAM, REPEAL ARTICLE 74:35 -MEDICAL WASTE, AND AMEND ARSD 74:27:07:01 AND 74:27:13:17 – SOLID WASTE Chairman Sweetman opened the hearing at 10:30 a.m. CDT.

The purpose of the hearing was to consider proposed amendments to chapter 74:36:21 – Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17, and revisions to South Dakota's Regional Haze State Implementation Plan.

Notice of the public hearing was published on July 21, 2011, in the following newspapers: Aberdeen American News, Black Hills Pioneer, Brookings Register, Huron Plainsman, Madison Daily Leader, Mitchell Daily Republic, Pierre Capital Journal, Rapid City Journal, Sioux Falls Argus Leader, Watertown Public Opinion, and Yankton Daily Press and Dakotan. 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. The notice was also sent to EPA, the National Park Service, Otter Tail Power Company, Public Utilities Commission, and several surrounding states.

The proposed rules were sent to the Bureau of Finance and Management and to the Legislative Research Council (LRC). LRC reviewed and approved the proposed amendments for form, style, and legality. LRC's changes were incorporated into the final version of the proposed rules.

Written comments regarding amendments to the Regional Haze Program were received from the National Park Service and Otter Tail Power Company.

Chairman requested public comments regarding the proposed amendment. No one offered comments.

Motion by Landguth, seconded by Johns, to adopt amendments to chapter 74:36:21, Regional Haze Program, by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, as presented. Motion carried.

Motion by Johns, seconded by Duxbury, to repeal article 74:35, Medical Waste. Motion carried.

Motion by Johns, seconded by Landguth, to adopt amendments to 74:27, Solid Waste, by revising 74:27:07:01 and 74:27:13:17, as presented. Motion carried.

Chairman Sweetman declared the hearing closed.

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpco.com

July 20, 2011



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

RECEIVED

JUL 22 2011

AIR QUALITY
PROGRAM

Dear Mr. Boddicker:

Subject: Comment - Proposed Amendments to the Regional Haze Program Rule
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 Power Company supports the amendments to Chapter 74:36:21 as proposed by the South Dakota Department of Natural Resources. We encourage the Board of Minerals and Environment to approve the amendments without further revision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Perry Graumann', written over a horizontal line.

Perry Graumann
Manager, Environmental Services



United States Department of the Interior

NATIONAL PARK SERVICE

Air Resources Division

P.O. Box 25287

Denver, CO 80225



IN REPLY REFER TO:

N3615 (2350)

August 17, 2011

RECEIVED

AUG 25 2011

AIR QUALITY
PROGRAM

Rick Boddicker
PMB 2020
South Dakota Department of Environment and Natural Resources
Joe Foss Building
523 E Capitol
Pierre, South Dakota 57501

Dear Mr. Boddicker:

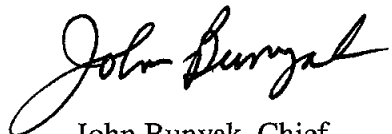
The National Park Service (NPS) has reviewed the South Dakota Regional Haze State Implementation Plan (SIP) that was submitted to the Environmental Protection Agency (EPA) on January 21, 2011, and revisions to the SIP that you provided on July 21, 2011.

We agree with the Department of Environment and Natural Resources (DENR)'s analysis that sulfate, organic carbon, and nitrate are the major contributors to visibility impairment at Badlands and Wind Cave National Parks in South Dakota and that, based on regional modeling by the Western Regional Air Partnership (WRAP), the major sources of sulfur dioxide (SO₂) are outside South Dakota. We note that the WRAP modeling included presumed SO₂ controls for the Gerald Gentleman Station in Nebraska under the Best Available Retrofit Technology requirements. Nebraska is not proposing to implement these controls. As a result, it is likely that the sulfate reductions illustrated in Figure 7-1(a) and (b) and the visibility improvement goals set by South Dakota based on the WRAP modeling will not be met. NPS is recommending SO₂ controls at Gerald Gentleman Station to EPA and Nebraska. We encourage South Dakota DENR to consult with Nebraska on reducing contributions from the Gerald Gentleman Station to Badlands and Wind Cave National Parks.

As part of the reasonable progress analysis, DENR completed a four factor analysis of potential controls for the wet kilns #4 and #5 at the Dakotah Cement plant. We recommend that the reasonable progress analysis should also evaluate controls for the larger kiln #6. As discussed in our January 27, 2003, comments to DENR on the Prevention of Significant Deterioration Permit for Dakotah Cement kiln #6, we believe that Selective Non-catalytic Reduction technology is a feasible option for cement kilns.

We appreciate the opportunity to work closely with South Dakota DENR to improve visibility conditions at our National Parks and Wilderness Areas. For further information regarding our comments, please contact Don Shepherd of my staff at (303) 969-2075.

Sincerely,



John Bunyak, Chief
Policy, Planning and Permit Review Branch

cc:

Gail Fallon
Air Quality Planning Unit (8P-AR)
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129


**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 August 18, 2011:

- a. The proposed amendments to chapter 74:36:21- Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota’s Regional Haze State Implementation Plan.

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 18 day

of August, 2011.


Notary Public - South Dakota

(Seal)

My Commission expires

²⁰
~~BRENDA ANDERSON, Notary Public~~
My Commission Expires
October 26, 2016

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

APPROVAL OF RULES

Following a public hearing held on August 18, 2011, the following rule revisions, attached, are approved and will become effective twenty days after filing with the Secretary of State:

- a. The proposed amendments to chapter 74:36:21- Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.


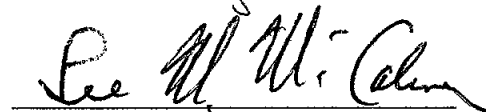


LEGISLATIVE RESEARCH COUNCIL
(for legality and for form and style)

Date Aug. 24, 2011

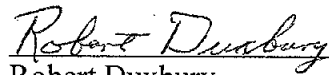
BOARD OF MINERALS AND ENVIRONMENT

Date Aug 18, 2011


Richard C. Sweetman, Chairman
Lee M. McCahren, Vice Chairman

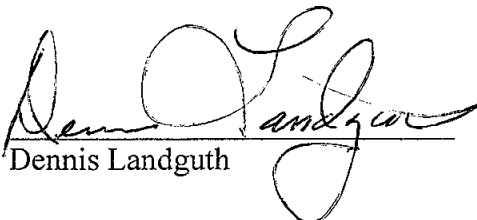
Peter Bullene



Linde Hilde
Robert Duxbury

Glenn Blumhardt

Charles Monson



Dennis Landguth

Timothy Johns

- 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.

74:36:21:02. 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 98th percentile (eighth highest value) of the modeling results, based on one year of the three years of meteorological data modeled, equals or exceeds five-tenths deciviews;

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

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

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

(10) "30-day rolling average," expressed as pounds per million Btus and pounds per hour and calculated in accordance with the following procedures:

(a) Sum the total pounds of pollutant in question emitted from a unit during an operating day and the previous 29 operating days;

(b) Sum the total heat input to the unit in million Btus during the operating day and the previous 29 operating days;

(c) Sum the total hours the unit operated in hours during the day and the previous 29 operating days;

(d) For pounds per million Btus, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total heat input during the 30-day operating days;

(e) For pounds per hour, divide the total number of pounds of the pollutant emitted during the 30-day operating days by the total hours operated during the 30-day operating days.

A new 30-day rolling average shall be calculated for each new operating day. Each 30-day rolling average shall represent all emissions, including emissions that occur during periods of startup, shutdown, and malfunction; and

(11) "Operating day," a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted the entire 24-hour period.

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, and malfunction;

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

(5) Nitrogen oxide emissions in excess of 561 pounds per hour, which includes periods of startup, ~~and~~ shutdown, and malfunction; and

(6) Nitrogen oxide emissions in excess of 0.10 pounds per million Btus, which ~~does not include~~ includes periods of startup, ~~and shutdown, and malfunction.~~

Compliance with the PM10 emission limits shall be based on an annual stack performance test using the performance testing methods in § 74:36:11:01 and using the average of three 1-hour test runs. Compliance with the sulfur dioxide and nitrogen oxide emission limits shall be based on using continuous emission monitoring systems and a 30-day rolling average.

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

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.~~ The owner or operator of a BART-eligible source shall install, certify, maintain, calibrate, and operate a continuous emission monitoring system for sulfur dioxide and nitrogen oxide in accordance with 40 C.F.R. Part 75 (July 1, 2009), except the recordkeeping and reporting requirements for the continuous emission monitoring systems shall be in accordance with 40 C.F.R. § 60.7 (July 1, 2009).

Monitoring and related recordkeeping and reporting requirements for other air pollutants from a BART-eligible source or from a major source or modification of a major source shall consist of at least the following: ~~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)~~

(1) All emissions monitoring and analysis procedures, alternative approved methods, or test methods required in determining compliance with §§ 74:36:21:04 and 74:36:21:06;

(2) As necessary, documentation of the use, maintenance, and if appropriate, installation of monitoring equipment or methods;

(3) Documentation of the following:

(a) The date, place, and time of sampling or measurements;

(b) The date or dates analyses were performed;

(c) The company or entity that performed the analyses;

(d) The analytical techniques or methods used;

(e) The results of such analyses; and

(f) The operating conditions as existing at the time of sampling or measurement;

(4) Recordkeeping and reporting requirements that comply with the following:

(a) Submission of reports of any required monitoring must occur at least every six months. Reports must clearly identify all exceedances with §§ 74:36:21:04 and 74:36:21:06. All required reports must be certified by a responsible official; and

(b) Exceedances of §§ 74:36:21:04 and 74:36:21:06, including those attributable to upset conditions. The probable cause of such exceedance and any corrective actions or preventive measures taken must be promptly reported and certified by a responsible official; and

(5) Requirements for retention of monitoring records and all supporting documentation for at least five years from the date of the monitoring sample, measurement, report, or application.

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

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, certify that on August 19, 2011, I sent by U.S. mail and electronic mail a correct copy of the following documents adopted by the Board of Minerals and Environment on August 18, 2011:

1. The minutes of the public hearing
2. A record of the written comments
3. The small business impact statement
4. The fiscal note
5. The rules adopted:

The amendments to article 74:36 by revising chapter 74:36:21 – Regional Haze Program, the repeal of article 74:35 – Medical Waste, and amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17.

These documents were sent to the Interim Rules Review Committee members at their respective electronic mail addresses listed below:

State Representative Peggy Gibson
peggygibson@hotmail.com

State Senator Angie Buhl
Angie.buhl@gmail.com

State Representative R. Shawn Tornow
rst2348@gmail.com

State Senator Jean M. Hunhoff
jHunhoff@Avera.org

State Senator Mike Vehle
mvehle@mit.midco.net

and to the following members at their respective U.S. mail addresses listed below:

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

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

The Honorable Roger W. Hunt
State Representative
P.O. Box 827
Brandon, SD 57005-0827

The Honorable Mike Vehle
State Senator
132 N. Harmon Drive
Mitchell, SD 57301

The Honorable R. Shawn Tornow
State Representative
P.O. Box 90748
Sioux Falls, SD 57109

Subscribed and sworn to
before me this 19 day
of August, 2011.

Brenda Anderson
Notary Public - South Dakota

Rick Boddicker
Rick Boddicker

(Seal)

My Commission expires

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

Boddicker, Rick

From: Boddicker, Rick
Sent: Friday, August 19, 2011 1:20 PM
To: 'Angie.buhl@gmail.com'
Subject: Material for Interim Rules Committee meeting, August 30, 2011



7436 regional haze
revisions.d...



7435 medical waste
revisions.d...



7427 solid waste
revisions.doc...



Otter Tail
comment.pdf (22 KB)



NPS comments.pdf
(77 KB)



8-2011AirQualityRul
eshearing2....



small business
impact.pdf (49 ...



fiscal note.pdf (43
KB)

August 19, 2011

Dear Senator Buhl:

Please find attached a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
b. A copy of the proposed repeal of article 74:35 – Medical Waste
c. A copy of the proposed revisions to article 74:27 – Solid Waste;
2. A copy of the comments received during the public notice;
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
Environmental Scientist III
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

August 19, 2011

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

Dear Representative Gibson:

Please find enclosed a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
b. A copy of the proposed repeal of article 74:35 – Medical Waste
c. A copy of the proposed revisions to article 74:27 – Solid Waste;
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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
Environmental Scientist III
Air Quality Program

Enclosures

Boddicker, Rick

From: Boddicker, Rick
Sent: Friday, August 19, 2011 1:18 PM
To: 'peggygibson@hotmail.com'
Subject: Material for Interim Rules Committee meeting, August 30, 2011



7436 regional haze
revisions.d...



7435 medical waste
revisions.d...



7427 solid waste
revisions.doc...



Otter Tail
comment.pdf (26 KB)



NPS comments.pdf
(77 KB)



8-2011AirQualityRul
eshearing2....



small business
impact.pdf (53 ...



fiscal note.pdf (46
KB)

August 19, 2011

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

Dear Representative Gibson:

Please find attached a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
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2. A copy of the comments received during the public notice;
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Sincerely,

Rick Boddicker
Environmental Scientist III
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

August 19, 2011

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

Dear Senator Hunhoff:

Please find enclosed a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
- b. A copy of the proposed repeal of article 74:35 – Medical Waste
- c. A copy of the proposed revisions to article 74:27 – Solid Waste;
2. A copy of the comments received during the public notice;
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
Environmental Scientist III
Air Quality Program

Enclosures

Boddicker, Rick

From: Boddicker, Rick
Sent: Friday, August 19, 2011 1:20 PM
To: 'jHunhoff@avera.org'
Subject: Material for Interim Rules Committee meeting, August 30, 2011



7436 regional haze
revisions.d...



7435 medical waste
revisions.d...



7427 solid waste
revisions.doc...



Otter Tail
comment.pdf (22 KB)



NPS comments.pdf
(77 KB)



8-2011AirQualityRul
eshearing2....



small business
impact.pdf (49 ...



fiscal note.pdf (43
KB)

August 19, 2011

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

Dear Senator Hunhoff:

Please find attached a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
b. A copy of the proposed repeal of article 74:35 – Medical Waste
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Environmental Scientist III
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

August 19, 2011

The Honorable Mike Vehle
State Senator
132 N. Harmon Drive
Mitchell, SD 57301

Dear Senator Vehle:

Please find enclosed a copy of the following documents:

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Environmental Scientist III
Air Quality Program

Enclosures

Boddicker, Rick

From: Boddicker, Rick
Sent: Friday, August 19, 2011 1:20 PM
To: 'mvehle@mit.midco.net'
Subject: Material for Interim Rules Committee meeting, August 30, 2011



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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 19, 2011

The Honorable R. Shawn Tornow
State Representative
P.O. Box 90748
Sioux Falls, SD 57109

Dear Representative Tornow:

Please find enclosed a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
- b. A copy of the proposed repeal of article 74:35 – Medical Waste
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Environmental Scientist III
Air Quality Program

Enclosures

Boddicker, Rick

From: Boddicker, Rick
Sent: Friday, August 19, 2011 1:19 PM
To: 'rst2348@gmail.com'
Subject: Material for Interim Rules Committee meeting, August 30, 2011



7436 regional haze
revisions.d...



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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

August 19, 2011

The Honorable Roger W. Hunt
State Representative
P.O. Box 827
Brandon, SD 57005-0827

Dear Representative Hunt:

Please find enclosed a copy of the following documents:

1. a. A copy of the revisions to chapter 74:36:21 – Regional Haze Program
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Rick Boddicker
Environmental Scientist III
Air Quality Program

Enclosures



Legislative Research Council

RULES REVIEW COMMITTEE MINUTES

Three hundred sixteenth meeting
Tuesday
August 30, 2011

Room 414
State Capitol
Pierre, South Dakota

The three hundred sixteenth meeting of the Rules Review Committee was called to order by Vice Chair Representative R. Shawn Tornow at 9:22 a.m. CDT, August 30, 2011, 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; Mitchell Technical Institute, 1800 E. Spruce, Room TC 155, Mitchell, South Dakota; SD School of Mines and Technology, 501 E. St. Joseph St., Room CB 109, Rapid City, South Dakota; University Center, 4801 N. Career Ave., North Admin Building, Room 145N, Sioux Falls, South Dakota; and Department of Transportation, 1306 W. 31st St., Yankton, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Angie Buhl and Mike Vehle; and Representatives Peggy Gibson, Roger Hunt, and R. Shawn Tornow (Vice Chair). Senator Jean Hunhoff (Chair) was excused. Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary. All members appeared at DDN locations except Representative Gibson who was in Pierre.

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 Hunt moved, seconded by Senator Buhl, that the minutes of the July 12, 2011, meeting be approved. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Rules Reviewed

Department of Education: Board of Education – Amend School Bus Standards and School Bus Procedures rules to make the rules current with the 2010 National School Transportation Specifications and Procedures and adopt a Professional Teachers rule to provide the content of teaching standards for teacher performance and evaluation.

Ms. Deb Barnett reviewed the proposed rules.

Members of the committee had a number of questions regarding the teacher performance standards that the department was unable to answer at the time.

Representative Hunt moved, seconded by Representative Gibson, to approve the School Bus Standards and School Bus Procedures 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: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Representative Gibson moved to approve the Professional Teachers rule proposed by the Department of Education: Board of Education. Motion died for a lack of a second.

Representative Hunt moved, seconded by Senator Tornow, to defer action on the Professional Teachers rule proposed by the Department of Education: Board of Education until the September 27th Rules Review meeting to allow the department time to respond to the committee's questions. Motion prevailed on a roll call vote with 4 ayes, 1 nay, 1 excused. Members voting aye: Buhl, Hunt, Tornow, and Vehle. Member voting nay: Gibson. Member excused: Hunhoff.

Vice Chair Tornow requested that the department's response also be provided to the House and Senate Education committee's chairs and vice chairs.

Department of Labor and Regulation: State Plumbing Commission – Amend rules to make amendments in regard to plumbing installation practices as they relate to the 2009 Uniform Plumbing Code; revise commercial inspection fees to create a small commercial fee for buildings which have five or less plumbing fixtures which shall have a fee of one hundred dollars; and make revisions to expand acceptable course offerings for continuing education requirements.

Mr. Mike Richards reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Labor and Regulation: State Plumbing Commission. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Labor and Regulation: Appraiser Certification Program – Adopt rules to require Appraisal Management Companies that oversee a network or panel of more than fifteen appraisers in the state or twenty-five or more nationally to register. The rules define terms; requires maintaining a roster of appraisal management companies registered; requires transmitting the roster to the Appraisal Subcommittee; requires notification of change of address; requires disclosure of designated officer and controlling person of the company; requires completion of an application and payment of a registration fee; requires nonresident consent to service of process for out of state companies; requires compliance with certain responsibilities and duties; requires retention of records; requires records to be available for inspection; requires acceptance of complaints for investigation by the state

agency; establishes disciplinary actions allowed; and describes the grounds for disciplinary actions.

Ms. Sherry Bren reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Labor and Regulation: Appraiser Certification Program. Motion prevailed on a roll call vote with 4 ayes, 2 excused. Members voting aye: Buhl, Gibson, Hunt, and Vehle. Members excused: Hunhoff and Tornow.

Department of Labor and Regulation: Division of Insurance – Amend a rule to require insurers to provide notice to policyholders about open enrollment and to include that information on their websites.

Mr. Randy Moses reviewed the proposed rule.

Senator Vehle moved, seconded by Representative Gibson, to approve the rule proposed by the Department of Labor and Regulation: Division of Insurance. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Environment and Natural Resources: Board of Minerals and Environment – Amend Solid Waste rules to include definitions related to medical waste; repeal Medical Waste rules to eliminate redundancy; and amend Regional Haze Program rules to revise the emission limits for sulfur dioxide and nitrogen oxides to include periods of startup and shutdown for coal fired power plants such as Ottertail Power Company's Big Stone I facility, define a "30-day rolling average" and "operating day" for calculating emission rates, and revise monitoring, recordkeeping, reporting, and other miscellaneous requirements.

Mr. Kyrik Rombough reviewed the proposed rules.

Senator Vehle moved, seconded by Senator Buhl, to approve the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment. Motion prevailed on a roll call vote with 4 ayes, 1 nay, 1 excused. Members voting aye: Buhl, Gibson, Hunt, and Vehle. Member voting nay: Tornow. Member excused: Hunhoff.

Department of Environment and Natural Resources: Water Management Board – Repeal the chapter on Construction of Control Facilities for water supply and treatment systems.

Mr. David Templeton reviewed the proposed rules.

Representative Hunt moved, seconded by Representative Tornow, to approve the rules proposed by the Department of Environment and Natural Resources: Water Management

Board. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Public Safety: Office of Weights and Measures – Amend a rule to include permissive language that, during the period from September 16 to November 30 each year, will allow South Dakota's gasoline "schedule of seasonal and geographical volatility classes" to exhibit our existing volatility standards or the standards in use in Minnesota, North Dakota, and Iowa.

Mr. Dave Pfahler reviewed the proposed rule. Mr. Pfahler read a letter provided to him by Dawna Leitzke, Petroleum and Propane Marketers Association, in support of the proposed rule.

Public Testimony

Mr. Bruce Heine, Bixby, Oklahoma, representing Magellan Pipeline, spoke in support of the proposed rule and answered committee questions regarding the necessity for the rules.

Representative Gibson moved, seconded by Senator Buhl, to approve the rule proposed by the Department of Public Safety: Office of Weights and Measures. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Agriculture: Animal Industry Board – Amend rules to remove dog and cat shows from the board's supervision; update current dates of reference materials; and repeal rules to relax requirements for parasiticide treatment of cattle imported from states not known to be infested with scabies.

Dr. Dustin Oedekoven reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hunt, to approve the rules regarding scabies proposed by the Department of Agriculture: Animal Industry Board. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Representative Gibson moved, seconded by Representative Hunt, to approve the remaining rules proposed by the Department of Agriculture: Animal Industry Board. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Agriculture: Division of Ag Development – Amend rules to make changes to certain agricultural finance programs to increase amounts, add new programs, and change criteria.

Ms. Terri LaBrie reviewed the proposed rules.

Representative Gibson moved, seconded by Senator Buhl, to approve the rules proposed by the Department of Agriculture: Division of Ag Development. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Agriculture: Division of Agricultural Services – Amend rules to require bulk storage facilities to anchor new and reinstalled bulk pesticide tanks in case the secondary containment fills with a liquid, record keeping requirements for each pesticide and repackaging of pesticides, to eliminate the minimum gallons required for operational area containment, revise the definition of triple rinse, and to dismiss outdated rules pertaining to commercial applicator's and open burning of containers.

Mr. Brad Berven reviewed the proposed rules.

Representative Hunt moved, seconded by Representative Gibson, to approve the rules proposed by the Department of Agriculture: Division of Agricultural Services. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Game, Fish and Parks – Amend East River Deer Hunting Season rules to establish number of licenses/tags available for the 2011 season and repeal the rule which designates areas where free antlerless deer licenses can be issued to farmers and ranchers for use in East River deer hunting units as this is being addressed in a new rule (ARSD 41:06:01:13); amend Antelope Hunting Season rules to establish the number of resident and nonresident licenses/tags available for the 2011 season, eliminate the split seasons and go to one season for Units 49A and 49B (Meade/Pennington counties) and Units 35A and 35B (Harding County), and eliminate the nine day extension beginning on the Saturday following Christmas which allows for the harvest of doe and fawn antelope; amend a Custer State Park Antelope Hunting Season rule to eliminate the 10 "doe/kid" antelope licenses previously available in Custer State Park; amend National Wildlife Refuge Deer Hunting Season rules to establish the number of resident and nonresident licenses/tags available for the 2011 season, and change "antlerless whitetail deer" licenses to "two-tag antlerless whitetail deer" licenses for LaCreek National Wildlife Refuge; and amend an Early Fall Canada Goose Hunting Season rule to adjust the season start date from "the Saturday closest to September 7" to "the first Saturday of September."

Mr. Tony Leif reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Tornow, 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: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Department of Game, Fish and Parks – Amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to increase the daily bag limit for redheads from 2 to 3 and the possession limit from 4 to 6 contingent upon the redhead harvest strategy at the Central Flyway level by

the U.S. Fish and Wildlife Service; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to increase the Canada goose daily bag limit from 3 to 4 and the possession limit from 6 to 8 contingent upon approval from the Central Flyway Council and U.S. Fish and Wildlife Service; and amend a Furbearer Season (Nonresident restrictions) rule to establish a 28 consecutive day furbearer license for nonresidents which must be exercised between the first Saturday of December through March 15.

Mr. Leif reviewed the proposed rule regarding a nonresident furbearer license – noting the changes to the proposed rule. Mr. Leif stated the Game, Fish and Parks Commission withdrew the proposed amendments to the waterfowl rules because the U.S. Fish and Wildlife Service did not adopt the changes.

Representative Gibson moved, seconded by Senator Buhl, to approve the rule proposed by the Department of Game, Fish and Parks. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Next Meeting Schedule

The next meeting of the Interim Rules Review Committee will be a DDN meeting held on September 27, 2011.

Adjournment

Representative Hunt moved, seconded by Representative Gibson, that the meeting be adjourned. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Buhl, Gibson, Hunt, Tornow, and Vehle. Member excused: Hunhoff.

Vice Chair Tornow adjourned the meeting at 12:59 p.m.



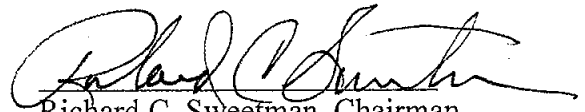
**IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES**

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 August 18, 2011:

- a. The proposed amendments to chapter 74:36:21- Regional Haze Program by revising sections 74:36:21:02; 74:36:21:06; and 74:36:21:09, repealing article 74:35 – Medical Waste, adopting amendments to article 74:27 – Solid Waste by revising 74:27:07:01 and 74:27:13:17 and revisions to South Dakota's Regional Haze State Implementation Plan.

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 18 day

of August, 2011.

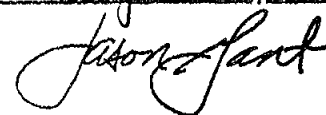

Notary Public - South Dakota

(Seal)

My Commission expires

~~20~~
~~BRENDA ANDERSON, Notary Public~~
~~My Commission Expires~~
~~October 26, 2016~~

Filed this 30th day of
August, 2011



SECRETARY OF STATE