

1.437, 1.465, and 1.497 are effective on September 10, 2007”.

2. On page 51560, in the first column, the sentence “The changes to 37 CFR 1.57, 1.437, and 1.465 are applicable as of April 1, 2007, for international applications filed on or after that date” should read “The changes to 37 CFR 1.57, 1.437, 1.465 and 1.497 are applicable as of April 1, 2007, for international applications filed on or after that date”.

#### § 1.17 [Corrected]

■ 3. On page 51563, in the second column, in § 1.17, paragraph (t) is corrected to read as follows:

#### § 1.17 Patent application and reexamination processing fees.

\* \* \* \* \*

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78) or for filing a request for the restoration of the right of priority under § 1.452—1,410.00.

Dated: October 3, 2007.

Jon W. Dudas,

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. E7-19960 Filed 10-10-07; 8:45 am]

BILLING CODE 3510-16-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2007-0656; FRL-8479-9]

### Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Revisions to the Administrative Rules of South Dakota

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule and NSPS delegation.

**SUMMARY:** EPA is taking direct final action approving a State Implementation Plan (SIP) revisions submitted by the State of South Dakota on August 8, 2006. The August 8, 2006 submittal revises the Administrative Rules of South Dakota, Air Pollution Control Program, by modifying the chapters pertaining to definitions, ambient air quality, air quality episodes, operating permits for minor sources, performance testing, control of visible emissions, and continuous emission monitoring systems. The intended effect of this action is to make these revisions federally enforceable. We are also

announcing that on July 19, 2007, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards to the State of South Dakota. These actions are being taken under sections 110 and 111 of the Clean Air Act.

**DATES:** This rule is effective on December 10, 2007 without further notice, unless EPA receives adverse comment by November 13, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0656, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov) and [ostrand.laurie@epa.gov](mailto:ostrand.laurie@epa.gov).
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- *Hand Delivery:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2007-0656. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov> your e-mail

address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, 8P-AR, EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6144, [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. General Information
- II. Summary of SIP Revision
- III. Revisions to Delegated Program
- IV. Final Action
- V. Statutory and Executive Order Reviews

##### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *South Dakota* mean the State of South Dakota, unless the context indicates otherwise.

## I. General Information

### A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through Regional Materials in EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

## II. Summary of SIP Revision

On August 8, 2006, the State of South Dakota submitted revisions to its State Implementation Plan (SIP). The specific revisions to the SIP contained in the August 8, 2006 submittal are explained below. The August 8, 2006 submittal also contained revisions to other sections of the Administrative Rules of South Dakota (ARSD) that are not part of the SIP. This rule does not address revisions to ARSD 74:36:05, 74:36:07, 74:36:08, or 74:36:16 that were part of the August 8, 2006 submittal.

### A. ARSD 74:36:01—Definitions

The State has revised sections 74:36:01:01(8)(e), (29), and (30), 74:36:01:05(1), and 74:36:01:20(5), (7), and (8) to update the incorporation of the Code of Federal Regulations (CFR) to the July 1, 2005 CFR and has revised section 74:36:01:01(77) by adding additional compounds that are included in the definition of “VOC”.

### B. ARSD 74:36:02—Ambient Air Quality

The State has revised sections 74:36:02:02 through 74:36:02:05 to update the incorporation of the CFR to the July 1, 2005 CFR and has made minor typographical corrections.

### C. ARSD 74:36:03—Air Quality Episodes

The State has revised chapter 74:36:03 to update the incorporation of the CFR to the July 1, 2005 CFR and has made minor typographical corrections.

### D. ARSD 74:36:04—Operating Permits for Minor Sources

The State has revised section 74:36:04:04 to update the incorporation of the CFR to the July 1, 2005 CFR and has made minor typographical corrections.

### E. ARSD 74:36:11—Performance Testing

The State has revised section 74:36:11:01 to update the incorporation of the CFR to the July 1, 2005 CFR.

### F. ARSD 74:36:12—Control of Visible Emissions

The State has revised sections 74:36:12:01 and 74:36:12:03 to update the incorporation of the CFR to the July 1, 2005 CFR.

### G. ARSD 74:36:13—Continuous Emission Monitoring Systems

The State has revised sections 74:36:13:02–04, and 74:36:13:06–08 to update the incorporation of the CFR to the July 1, 2005 CFR.

## III. Revisions to Delegated Programs

### A. ARSD 74:36:07—New Source Performance Standards (NSPS)

The August 8, 2006 submittal by the State updated the effective date of the incorporated by reference NSPS to July 1, 2005. EPA is announcing that on July 19, 2007, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State. The July 19, 2007 letter of delegation to the State follows:

Ref: 8P-AR

Steven M. Pirner, P.E., Secretary, South Dakota Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol Avenue, Pierre, SD 57501-3182

Dear Mr. Pirner:

On August 8, 2006, the State submitted a revision to the Air Pollution Control Program for South Dakota. Specifically, South Dakota Air Pollution Control Program Chapter 74:36:07, New Source Performance Standards, was revised to update the citation for the incorporated Federal New Source Performance Standards (NSPS) in 40 CFR part 60 as those in effect on July 1, 2005.

Subsequent to states adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the state's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of South Dakota and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of South Dakota. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of South Dakota as follows:

(A) Responsibility for all sources located, or to be located, in the State of South Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2005. *Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, Ce, BBBB and DDDD, and HHHH. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.*

(B) Not all authorities of NSPS can be delegated to states under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Enclosed with this letter is a list of examples of sections in 40 CFR part 60 related to the NSPS being delegated in this letter that cannot be delegated to the State of South Dakota.

(C) The Department of Environment and Natural Resources (DENR) and EPA will

continue a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the state will be the primary responsibility of the DENR. If the DENR determines that such enforcement is not feasible and so notifies EPA, or where the DENR acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of South Dakota subject to NSPS.

(E) The State of South Dakota will at no time grant a variance or waiver from compliance with NSPS regulations. Should DENR grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the DENR shall also constitute grounds for revocation of delegation by EPA.

(F) If at anytime there is a conflict between a state regulation and a Federal regulation (40 CFR part 60), the Federal regulation must be applied if it is more stringent than that of the state. If the state does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a state procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DENR.

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of South Dakota to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the state's request of August 8, 2006.

(I) Upon approval of the Regional Administrator of EPA Region VIII, the

Secretary of DENR may subdelegate his/her authority to implement and enforce the NSPS to local air pollution control authorities in the state when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of South Dakota must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the state may approve minor changes in methodology provided these changes are reported to EPA Region VIII. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability, such as those specified in 40 CFR part 60.5 and review of plans, as provided for in 40 CFR part 60.6, shall be consistent with those determinations already made and reviews conducted by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR part 60.13(i), may be approved by the State only if the specific NSPS grants that authority. Otherwise, EPA retains the authority to review and approve such alternatives.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the state shall notify EPA Region VIII and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the state in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to

the EPA Region VIII office, but rather to the DENR.

(Q) As 40 CFR part 60 is updated, South Dakota should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving South Dakota's request for NSPS delegation for all areas within the State except for land within formal Indian reservations located within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation, any land held in trust by the United States for an Indian tribe; and any other areas which are "Indian Country" within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the state to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of South Dakota will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Callie Videtich, Director of our Air and Radiation Program, at (303) 312-6434, or toll-free at 1-800-227-8917.

Sincerely yours,  
Robert E. Roberts,  
*Regional Administrator.*

Enclosure  
cc: Brian Gustafson, Administrator, South Dakota Air Quality Program

**Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through January 31, 2006, to the State of South Dakota**

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A .....	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e); and 60.13(i).
Da .....	60.47Da.
Db .....	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc .....	60.48c(a)(4).
Ec .....	60.56c(i), 60.8.
J .....	60.105(a)(13)(iii) and 60.106(i)(12).
Ka .....	60.114a.
Kb .....	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O .....	60.153(e).
DD .....	60.302(d)(3).
GG .....	60.332(a)(4) and 60.335(b)(10)(ii).
VV .....	60.482-1(c)(2) and 60.484.
WW .....	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX .....	60.502(e)(6).
AAA .....	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e), and 60.539.
BBB .....	60.543(c)(2)(ii)(B).
DDD .....	60.562-2(c).
GGG .....	60.592(c).

## EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED—Continued

40 CFR subparts	Section(s)
III .....	60.613(e).
JJJ .....	60.623.
KKK .....	60.634.
NNN .....	60.663(f).
QQQ .....	60.694.
RRR .....	60.703(e).
SSS .....	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT .....	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV .....	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW .....	60.754(a)(5).
CCCC .....	60.2030(c)(1) through (7).

#### IV. Final Action

EPA is approving revisions to the South Dakota SIP submitted by the State on August 8, 2006. The revisions we are approving are revisions to ARSD 74:36:01, 73:36:02, 74:36:03, 74:36:04, 74:36:11, 74:36:12, and 74:36:13. We are also announcing that on July 19, 2007, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State of South Dakota.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The South Dakota SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) The revisions to the SIP meet Federal requirements and allow the State to include the most recent version of federal regulations; and (2) the NSPS delegation meets the requirements of section 111(c) of the CAA and 40 CFR part 60. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective December 10, 2007 without further notice unless the Agency receives adverse comments by November 13, 2007. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a

subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### V. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 14, 2007.  
**Kerrigan G. Clough**,  
*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

**Subpart QQ—South Dakota**

■ 2. In § 52.2170, the table in paragraph (c) is amended by revising the entries for chapters 74:36:01, 73:36:02, 74:36:03, 74:36:04, 74:36:11, 74:36:12, and 74:36:13 of the Administrative Rules of South Dakota to read as follows:

**§ 52.2170 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

State citation	Title/subject	State effective date	EPA approval date and citation <sup>1</sup>	Explanations
<b>74:36:01 Definitions</b>				
74:36:01:01 .....	Definitions 74:36:01:01(8)(e), (29), (30), (77)	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:01:05 .....	Applicable Requirements of the Clean Air Act Defined.	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:01:20 .....	Physical change or change in the method of operation.	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
<b>74:36:02 Ambient Air Quality</b>				
74:36:02:02 .....	Ambient air quality standards .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:02:03 .....	Methods of sampling and analysis .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:02:04 .....	Air quality monitoring network .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:02:05 .....	Ambient air monitoring requirements .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
<b>74:36:03 Air Quality Episodes</b>				
74:36:03:01 .....	Air pollution emergency episode .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:03:02 .....	Episode emergency contingency plan .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
<b>74:36:04 Operating Permits for Minor Sources</b>				
74:36:04:04 .....	Standard for issuance of operating permit ....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
<b>74:36:11 Performance Testing</b>				
74:36:11:01 .....	Stack performance testing or other testing methods.	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
<b>74:36:12 Control of Visible Emissions</b>				
74:36:12:01 .....	Restrictions on visible emissions .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:12:03 .....	Exceptions granted to alfalfa pelletizers or dehydrators.	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	

State citation	Title/subject	State effective date	EPA approval date and citation <sup>1</sup>	Explanations
<b>74:36:13 Continuous Emission Monitoring Systems</b>				
74:36:13:02 .....	Minimum performance specifications for all continuous emission monitoring systems.	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:13:03 .....	Reporting requirements .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:13:04 .....	Notice to department of exceedance .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:13:06 .....	Compliance certification .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:13:07 .....	Credible evidence .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
74:36:13:08 .....	Compliance Assurance Monitoring .....	6/13/2006	[Insert <b>Federal Register</b> page number where the document begins]; 10/11/2007.	
*	*	*	*	*

<sup>1</sup> In order to determine the EPA effective date for a specific provision that is listed in this table, consult the **Federal Register** cited in this column for that particular provision.

\* \* \* \* \*

[FR Doc. E7-19831 Filed 10-10-07; 8:45 am]  
 BILLING CODE 6560-50-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Parts 206 and 207**

[Docket ID FEMA-2006-0035]

RIN 1660-AA21

**Management Costs**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule implements the management costs provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In so doing, it simplifies and clarifies the method by which FEMA contributes to costs incurred by grantees and subgrantees in implementing the Public Assistance and Hazard Mitigation Grant programs and establishes fixed management cost rates for compensating eligible grantees and subgrantees.

**DATES:** *Effective Date:* This rule is effective on November 13, 2007.

*Comment Date:* Comments are due on or before November 13, 2007.

**ADDRESSES:** You may submit comments, identified by Docket ID FEMA-2006-0035, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* FEMA-RULES@dhs.gov.

Include Docket ID FEMA-2006-0035 in the subject line of the message.

*Fax:* 866-466-5370.  
*Mail/Hand Delivery/Courier:* Rules Docket Clerk, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.  
*Instructions:* All Submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of [www.regulations.gov](http://www.regulations.gov).

*Docket:* For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Submitted comments may also be inspected at Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Jonna M. Long, Office of the Chief Financial Officer, Federal Emergency Management Agency, PP 632, 500 C Street, SW., Washington, DC 20472, 202-646-7057, (facsimile) (202) 646-4268, or (e-mail) [jonna.long@dhs.gov](mailto:jonna.long@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

Under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5206, and its implementing regulations, the Federal Emergency Management Agency (FEMA) has the

authority to assist State and local governments in carrying out their responsibilities pursuant to a Presidentially-declared major disaster or emergency. Two of the major programs authorized by the Stafford Act that provide assistance to State and local governments are the Public Assistance (PA) program and the Hazard Mitigation Grant Program (HMGP).

- PA, implemented at part 206 subparts G and H of this chapter, provides funding through grants for emergency protective measures, debris removal, and repair, replacement, or restoration of facilities not met by insurance.

- HMGP, implemented at part 206 subpart N of this chapter, provides funding through grants to undertake sustained mitigation measures that will reduce or permanently eliminate the long-term risk to people and property from natural hazards and their effects. Sustained mitigation measures include acquisition for open space, elevations of flood prone properties, and wind or seismic retrofitting of structures.

Section 324 of the Stafford Act, 42 U.S.C. 5165b, requires FEMA to establish management cost rates for grantees and subgrantees that will be used to determine contributions for management costs and to review those management cost rates not later than 3 years after the date of establishment of the rates and periodically thereafter. "Management costs," for purposes of this regulation, include any indirect costs, any administrative expenses and any other expenses not directly chargeable to a specific project that are reasonably incurred by a grantee or subgrantee in administering and managing a PA program or HMGP grant award.