

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 May 9, 2005. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 8, 2005

Karen Schwinn,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(6)(vi)(E) and (c)(334) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(6) * * *

(vi) * * *

(E) Previously approved on September 22, 1972 in paragraph (c)(6) of this section and now deleted without replacement Rule 403 (Southeast Desert).

* * * * *

(334) New and amended regulations for the following APCDs were submitted on September 23, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(1) Rule 416.1, adopted on July 8, 2004.

[FR Doc. 05-4340 Filed 3-7-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08-OAR-2005-SD-0001; FRL-7878-6]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the State of South Dakota that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by South Dakota and approved by EPA.

DATES: *Effective Date:* This action is effective March 8, 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. R08-OAR-2005-SD-0001. All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. 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.

SIP materials which are incorporated by reference into 40 CFR part 52 are also available for inspection at the following locations: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave., NW, Washington, DC 20460 or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA, Region 8, (303) 312-6437, ostrand.laurie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we" or "our" is used it means the EPA.

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I. Change in IBR Format

This format revision will affect the "Identification of plan" section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA); the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC; and the EPA Region 8 Office.

A. Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) and achieve certain other Clean Air Act (Act) requirements (e.g., visibility requirements, prevention of significant deterioration). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network descriptions, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces the SIP

Each SIP revision submitted by South Dakota must be adopted at the state level after undergoing reasonable notice and public hearing. SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules and timetables for compliance.

EPA evaluates submitted SIPs to determine if they meet the Act's requirements. If a SIP meets the Act's requirements, EPA will approve the SIP. EPA's notice of approval is published in the **Federal Register** and the approval is then codified in the Code of Federal Regulations (CFR) at 40 CFR part 52. Once EPA approves a SIP, it is enforceable by EPA and citizens in federal district court.

We do not reproduce in 40 CFR part 52 the full text of the South Dakota regulations that we have approved; instead, we incorporate them by reference ("IBR"). We approve a given state regulation with a specific effective date and then refer the public to the location(s) of the full text version of the state regulation(s) should they want to know which measures are contained in a given SIP (see "I.F. Where You Can Find a Copy of the SIP Compilation").

C. How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to

address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations.

On May 22, 1997 (62 FR 27968), we announced revised procedures for incorporating by reference federally approved SIPs. The procedures announced included: (1) A new process for incorporating by reference material submitted by states into compilations and a process for updating those compilations on roughly an annual basis; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the compilations and the CFR; and (3) a revised format for the "Identification of plan" sections for each applicable subpart to reflect these revised IBR procedures.

D. How EPA Compiles the SIP

We have organized into a compilation the federally-approved regulations, source-specific requirements and nonregulatory provisions we have approved into the SIP. We maintain hard copies of the compilation in binders and we primarily update these binders on an annual basis.

E. How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the state regulations, part two contains the source-specific requirements that have been approved as part of the SIP (if any), and part three contains nonregulatory provisions that we have approved. Each compilation contains a table of identifying information for each regulation, each source-specific requirement, and each nonregulatory provision. The state effective dates in the tables indicate the date of the most recent revision to a particular regulation. The table of identifying information in the compilation corresponds to the table of contents published in 40 CFR part 52 for the state. The EPA Regional Offices have the primary responsibility for ensuring accuracy and updating the compilations.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region 8 developed and will maintain the compilation for South Dakota. An electronic copy of the compilation is contained in Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Look for Docket ID No. R08-OAR-2005-SD-0001. A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at

the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460; and National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Copies of the South Dakota regulations we have approved are also available on the following Web page: <http://www.epa.gov/region8/air/sip.html>.

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA has revised the organization of the "Identification of plan" section in 40 CFR part 52 and included additional information to clarify the elements of the SIP.

The revised Identification of plan section for South Dakota contains five subsections:

1. Purpose and scope (see 40 CFR 52.2170(a));
2. Incorporation by reference (see 40 CFR 52.2170(b));
3. EPA-approved regulations (see 40 CFR 52.2170(c));
4. EPA-approved source-specific requirements (see 40 CFR 52.2170(d)); and
5. EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc. (see 40 CFR 52.2170(e)).

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP are federally enforceable as of the effective date of EPA's approval of the respective revisions. In general, SIP revisions become effective 30 to 60 days after publication of EPA's SIP approval action in the **Federal Register**. In specific cases, a SIP revision action may become effective less than 30 days or greater than 60 days after the **Federal Register** publication date. In order to determine the effective date of EPA's approval for a specific South Dakota SIP provision that is listed in paragraph 40 CFR 52.2170 (c), (d), or (e), consult the volume and page of the **Federal Register** cited in the "EPA approval date" column of 40 CFR 52.2170 for that particular provision.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and to provide a smooth transition to the new SIP processing system, we are retaining the original Identification of plan section (see 40 CFR 52.2186). This section previously appeared at 40 CFR 52.2170. After an initial two-year period, we will review our experience with the new table format and will decide whether or not to retain the original Identification of plan section (40 CFR 52.2186) for some further period.

II. What EPA Is Doing in This Action

Today's action constitutes a "housekeeping" exercise to reformat the codification of the EPA-approved South Dakota SIP.

III. Good Cause Exemption

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of "good cause," authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply reformats the codification of provisions which are already in effect as a matter of law.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action.

IV. Statutory and Executive Order Review

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative

Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does 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), nor will it 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply reformats the codification of provisions which are already in effect as a matter of law. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 8, 2005. 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**. These corrections to the Identification of plan for South Dakota is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the South Dakota SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reorganization of the "Identification of plan" section of 40 CFR 52.2170 for South Dakota.

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: February 16, 2005.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart QQ—South Dakota

■ 2. Section 52.2170 is redesignated as § 52.2186 and the section heading and paragraph (a) are revised to read as follows:

§ 52.2186 Original identification of plan section.

(a) This section identifies the original “Air Implementation Plan for the State of South Dakota” and all revisions submitted by South Dakota that were federally approved prior to November 15, 2004.

* * * * *

■ 3. A new § 52.2170 is added to read as follows:

§ 52.2170 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan for South Dakota under section 110 of the Clean Air Act, 42 U.S.C. 7410 and 40 CFR part 51 to meet national ambient air quality standards or other requirements under the Clean Air Act.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to November 15, 2004 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as submitted by the state to EPA, and notice of any change in the material will be published in the **Federal Register**. Entries for paragraphs (c) and (d) of this section with EPA approval dates after November 15, 2004, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 8 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the State Implementation Plan as of November 15, 2004.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(c) *EPA approved regulations.*

(1) State of South Dakota Regulations

State citation	Title/subject	State effective date	EPA approval date and citation ¹	Explanations
74:36:01 Definitions				
74:36:01:01	Definitions 74:36:01:01(1)–(76), (78) and (79)	4/4/99	4/7/03, 68 FR 16726.	
	74:36:01:01 (77), (80) and (81)	9/1/03	5/10/04, 69 FR 25839.	
74:36:01:02	Actual emissions defined	1/5/95	10/19/98, 63 FR 55804.	
74:36:01:03	Administrative permit amendment defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:04	Affected states define	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:05	Applicable requirements of Clean Air Act defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:06	Complete application defined	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:07	Major modification defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:08	Major source defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:09	Categories of sources defined	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:10	Modification defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:11	National ambient air quality standard (NAAQS)	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:12	Potential to emit defined	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:13	Process weight rate defined	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:14	Reconstruction of sources defined	4/22/93	10/19/98, 63 FR 55804.	
74:36:01:15	Regulated air pollutant defined	1/5/95	10/19/98, 63 FR 55804.	
74:36:01:16	Responsible official defined	4/22/93	10/19/98, 63 FR 55804.	
73:36:01:17	Significant defined	4/4/99	4/7/03, 68 FR 16726.	
74:36:01:18	Municipal solid waste landfill defined	12/29/96	10/19/98, 63 FR 55804.	
74:36:01:19	Existing municipal solid waste landfill defined	12/29/96	10/19/98, 63 FR 55804.	
74:36:01:20	Physical change or change in the method of operation.	4/4/99	4/7/03, 68 FR 16726.	
74:36:02 Ambient Air Quality				
74:36:02:01	Air quality goals	4/22/93	10/19/98, 63 FR 55804.	
74:36:02:02	Ambient air quality standards	6/27/00	4/7/03, 68 FR 16726.	
74:36:02:03	Methods of sampling and analysis	6/27/00	4/7/03, 68 FR 16726.	
74:36:02:04	Air quality monitoring network	6/27/00	4/7/03, 68 FR 16726.	
74:36:02:05	Ambient air monitoring requirements	6/27/00	4/7/03, 68 FR 16726.	
74:36:03 Air Quality Episodes				
74:36:03:01	Air pollution emergency episode	1/5/95	10/19/98, 63 FR 55804.	
74:36:03:02	Episode emergency contingency plan	1/5/95	10/19/98, 63 FR 55804.	

State citation	Title/subject	State effective date	EPA approval date and citation ¹	Explanations	
74:36:04 Operating Permits for Minor Sources					
74:36:04:01 74:36:04:02 74:36:04:03	Applicability Permit required Operating permit exemptions	4/22/93 1/5/95 4/4/99	10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726	Except 74:36:04:03.01, Minor permit variance, not in SIP.	
74:36:04:04 74:36:04:05 74:36:04:06	Standard for issuance of operating permit Time period for operating permits and renewals ... Timely and complete application for operating permit required.	1/5/95 4/22/93 9/1/03	10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 5/10/04 69 FR 25839.		
74:36:04:07 74:36:04:08 74:36:04:09 74:36:04:10 74:36:04:11	Required contents of complete application for operating permit. Applicant required to supplement or correct application. Permit application—Completeness review Time period for department’s recommendation Department’s recommendation on operating permit.	4/22/93 1/5/95 4/4/99 4/22/93 4/4/99	10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726.		
74:36:04:12 74:36:04:12.01 74:36:04:13	Public participation in permitting process Public review of department’s draft permit Final permit decision—Notice to interested persons.	4/4/99 4/4/99 4/4/99	4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726.		
74:36:04:14 74:36:04:15 74:36:04:16 74:36:04:17 74:36:04:18 74:36:04:19 74:36:04:20 74:36:04:20.01 74:36:04:20.02 74:36:04:20.03 74:36:04:20.04	Right to petition for contested case hearing Contents of operating permit Operating permit expiration Renewal of operating permit Operating permit revision Administrative permit amendment Procedures for administrative permit amendments Minor permit amendment required Requirements for minor permit amendment Application for minor permit amendment Department deadline to approve minor permit amendment.	4/4/99 4/22/93 4/22/93 1/5/95 4/4/99 4/4/99 4/4/99 4/4/99 1/5/95 1/5/95 4/4/99	4/7/03, 68 FR 16726. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726.		
74:36:04:21 74:36:04:22 74:36:04:23 74:36:04:24 74:36:04:25 74:36:04:26 74:36:04:27 74:36:04:28 74:36:04:29 74:36:04:30 74:36:04:31 74:36:04:32 74:36:04:33	Permit modifications Source status change—new permit required Reopening operating permit for cause Procedures to reopen operating permit General permit (repealed) General permit—Notice of intent (repealed) Operating permit termination, modification, and revocation. Notice of operating noncompliance—Contents Petition for contested case on alleged violation Stack performance tests required (repealed) Circumvention of emissions not allowed General permits Secretary may require an individual permit	1/5/95 4/4/99 4/22/93 4/22/93 12/29/96 12/29/96 4/22/93 4/22/93 4/22/93 12/29/96 4/22/93 9/1/03 9/1/03	10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 5/10/04 69 FR 25839. 5/10/04 69 FR 25839.		
74:36:06 Regulated Air Pollutant Emissions					
74:36:06:01 74:36:06:02 74:36:06:03 74:36:06:04 74:36:06:05 74:36:06:06 74:36:06:07	Applicability Allowable emissions for fuel-burning units Allowable emissions for process industry units Particulate emission restrictions for incinerators and waste wood burners. Most stringent interpretation applicable Stack performance test Open burning practices prohibited	1/5/95 4/4/99 4/4/99 4/22/93 4/22/93 4/22/93 4/4/99	10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726. 4/7/03, 68 FR 16726. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 10/19/98, 63 FR 55804. 4/7/03, 68 FR 16726.		
74:36:07 New Source Performance Standards ²					
74:36:07:08 74:36:07:11 74:36:07:29 74:36:07:30	Ash Disposal requirements Additional permit requirements for asphalt plants (repealed). Operating requirements for wire reclamation furnaces. Monitoring requirements for wire reclamation furnaces.	12/29/96 4/4/99 4/22/93 4/22/93	5/22/00, 65 FR 32033. 5/22/00, 65 FR 32033. 9/6/95, 60 FR 46222. 9/6/95, 60 FR 46222.		

State citation	Title/subject	State effective date	EPA approval date and citation ¹	Explanations
74:36:10 New Source Review				
74:36:10:01	Applicability	4/22/93	10/19/98, 63 FR 55804.	
74:36:10:02	Definitions	9/1/03	5/10/04 69 FR 25839.	
74:36:10:03	Net emissions increase defined (repealed)	9/1/03	5/10/04 69 FR 25839.	
74:36:10:03:01	New source review preconstruction permit required.	9/1/03	5/10/04 69 FR 25839.	
74:36:10:04	Criteria for creditability of increase or decrease in actual emissions (repealed).	9/1/03	5/10/04 69 FR 25839.	
74:36:10:05	New source review preconstruction permit	9/1/03	5/10/04 69 FR 25839.	
74:36:10:06	Causing or contributing to violation of any national ambient air quality standard.	9/1/03	5/10/04 69 FR 25839.	
74:36:10:07	Determining credit for emission offsets	9/1/03	5/10/04 69 FR 25839.	
74:36:10:08	Projected actual emissions	9/1/03	5/10/04 69 FR 25839.	
74:36:10:09	Clean unit test for emission units subject to lowest achievable emission rate.	9/1/03	5/10/04 69 FR 25839.	
74:36:10:10	Clean unit test for emission units comparable to lowest achievable emission rate.	9/1/03	5/10/04 69 FR 25839.	
74:36:11 Performance Testing				
74:36:11:01	Stack performance testing or other testing methods.	9/1/03	5/10/04 69 FR 25839.	
74:36:11:02	Secretary may require performance tests	12/29/96	10/19/98 63 FR 55804.	
74:36:11:03	Notice to department of performance test	12/29/96	10/19/98 63 FR 55804.	
74:36:11:04	Testing new fuels or raw materials	4/4/99	2/3/00 65 FR 5264.	
74:36:12 Control of Visible Emissions				
74:36:12:01	Restrictions on visible emissions	6/27/00	4/7/03, 68 FR 16726.	
74:36:12:02	Exceptions to restrictions	4/22/93	10/19/98, 63 FR 55804.	
74:36:12:03	Exceptions granted to alfalfa pelletizers or dehydrators.	1/5/95	10/19/98, 63 FR 55804.	
74:36:13 Continuous Emissions Monitoring Systems				
74:36:13:01	Secretary may require continuous emission monitoring systems (CEMS).	4/22/93	10/19/98, 63 FR 55804.	
74:36:13:02	Minimum performance specifications for all continuous emission monitoring systems.	6/27/00	4/7/03, 68 FR 16726.	
74:36:13:03	Reporting requirements	6/27/00	4/7/03, 68 FR 16726.	
74:36:13:04	Notice to department of exceedance	6/27/00	4/7/03, 68 FR 16726.	
74:36:13:05	Compliance determined by data from continuous emission monitor.	4/22/93	10/19/98, 63 FR 55804.	
74:36:13:06	Compliance certification	1/5/95	10/19/98, 63 FR 55804.	
74:36:13:07	Credible evidence	6/27/00	4/7/03, 68 FR 16726.	
74:36:17 Rapid City Street Sanding and Deicing				
74:36:17:01	Applicability	2/11/96	6/10/02, 67 FR 39619.	
74:36:17:02	Reasonable available control technology	2/11/96	6/10/02, 67 FR 39619.	
74:36:17:03	Street sanding specifications	2/11/96	6/10/02, 67 FR 39619.	
74:36:17:04	Street deicing and maintenance plan	2/11/96	6/10/02, 67 FR 39619.	
74:36:17:05	Street sanding and sweeping recordkeeping	2/11/96	6/10/02, 67 FR 39619.	
74:36:17:06	Inspection authority	2/11/96	6/10/02, 67 FR 39619.	
74:36:18 Regulations for State Facilities in the Rapid City Area				
74:36:18:01	Definitions	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:02	Applicability	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:03	Permit required	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:04	Time period for permits and renewals	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:05	Required contents of a complete application for a permit.	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:06	Contents of permit	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:07	Permit expiration	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:08	Renewal of permit	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:09	Reasonably available control technology required	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:10	Visible emission limit for construction and continuous operation activities.	7/1/02	1/20/04, 69 FR 2671.	
74:36:18:11	Exception to visible emission limit	7/1/02	1/20/04, 69 FR 2671.	

State citation	Title/subject	State effective date	EPA approval date and citation ¹	Explanations
74:36:18:12	Notice of operating noncompliance—Contents	7/1/02	1/20/04, 69 FR 2671.	

¹ 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.

² The listed provisions are the only provisions of 74:36:07 included in the SIP.

(2) Pennington County Ordinance.

Ordinance citation	Title/subject	Adoption date	EPA approval date and citation ³	Explanations
Ordinance #12—Fugitive Dust Regulation—1.0 Control of Fugitive Dust				
1.1	Applicability	12/12/78	7/30/79, 44 FR 44494.	
1.2	Definitions	12/12/78	7/30/79, 44 FR 44494.	
1.3	Standard of Compliance	12/12/78	7/30/79, 44 FR 44494.	
1.4	Reasonably available control technology required	12/12/78	7/30/79, 44 FR 44494.	
1.5	Fugitive dust control permits required for construction activities, <i>i.e.</i> , temporary operations.	12/12/78	7/30/79, 44 FR 44494.	
1.6	Compliance plans and schedules required, <i>i.e.</i> , continuous operations.	12/12/78	7/30/79, 44 FR 44494.	
1.7	Enforcement procedures	12/12/78	7/30/79, 44 FR 44494.	
1.8	Establishment of administrative mechanisms	12/12/78	7/30/79, 44 FR 44494.	
1.9	Separability	12/12/78	7/30/79, 44 FR 44494.	

³ 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.

(d) EPA-approved source-specific requirements.

Name of source	Nature of requirement	State effective date	EPA approval date and citation ⁴	Explanations
South Dakota State University steam generating Plant.	Variance No. AQ 79-02	3/18/82	7/7/83, 48 FR 31199	Variance expired on 3/18/85.

⁴ 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.

(e) EPA-approved nonregulatory provisions.

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ adopted date	EPA approval date and citation ⁵	Explanations
I. South Dakota's Air Pollution Control Implementation Plan. Contains the following sections: A. Introduction B. Legal Authority C. Control Strategy D. Compliance Schedule E. Prevention of Air Pollution Emergency Episodes F. Air Quality Surveillance G. Review of New Sources and Modifications H. Source Surveillance I. Resources J. Intergovernmental Cooperation	Statewide	Submitted: 1/27/72 and 5/2/72 Adopted: 1/17/72.	5/31/72, 37 FR 10842 with correction and clarification on 7/27/72, 37 FR 15080.	
II. Part D Plan for Total Suspended Particulate.	Rapid City	Submitted: 12/27/78 Adopted: 12/78.	7/30/79 44 FR 44494.	
III. SIP to meet Air Quality Monitoring 40 CFR part 58, subpart c, paragraph 58.20 and public notification required under section 127 of the Clean Air Act.	Statewide	Submitted: 1/21/80	9/4/80, 45 FR 58528.	
IV. Lead SIP	Statewide	Submitted: 5/4/84	9/26/84, 49 FR 37752.	

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ adopted date	EPA approval date and citation ⁵	Explanations
V. Stack Height Demonstration Analysis	Statewide	Submitted: 8/20/96 and 12/3/86.	6/7/89, 54 FR 24334.	
VI. Commitment to revise stack height rules in response to NRDC v. Thomas, 838 F.2d 1224 (DC Cir. 1988).	Statewide	Submitted: 5/11/88	9/2/88, 53 FR 34077.	
VII. PM10 Committal SIP	Statewide	Submitted: 7/12/88	10/5/90, 55 FR 4083.1	
VIII. Small Business Assistance Program	Statewide	Submitted: 11/10/92 and 4/1/94.	10/25/94, 59 FR 53589.	
IX. Commitment regarding permit exceedences of the PM10 standard in Rapid City.	Rapid City	Submitted: 7/19/95	6/10/02, 67 FR 39619.	

⁵ 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. 05-4338 Filed 3-7-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL-7877-4]

Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended (RCRA), allows EPA to authorize State hazardous waste management programs if EPA finds that such programs are equivalent and consistent with the Federal program and provide adequate enforcement of compliance. Title 40 of the Code of Federal Regulations (CFR) part 272 is used by EPA to codify its decision to authorize individual State programs and incorporates by reference those provisions of the State statutes and regulations that are subject to EPA's inspection and enforcement authorities as authorized provisions of the State's program. This final rule revises the codification of the Idaho authorized program.

DATES: This final rule is effective on March 8, 2005. The incorporation by reference of authorized provisions in the Idaho statutes and regulations contained in this rule is approved by the Director of the Federal Register as of March 8, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM-122, Seattle, WA 98101, e-mail: hunt.jeff@epa.gov, phone number (206) 553-0256.

SUPPLEMENTARY INFORMATION:

I. Incorporation by Reference

A. What Is Codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program in the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is federally enforceable. EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

Today's action codifies EPA's authorization of revisions to Idaho's hazardous waste management program. This codification reflects the State program in effect at the time EPA authorized revisions to the Idaho hazardous waste management program in a final rule dated March 10, 2004 (69 FR 11322). Notice and an opportunity for comment regarding the revisions to the authorized State program were provided to the public at the time those revisions were proposed.

B. What Is the History of the Authorization and Codification of Idaho's Hazardous Waste Management Program?

Idaho initially received final authorization for its hazardous waste management program, effective April 9, 1990 (55 FR 11015). Subsequently, EPA authorized revisions to the State's program effective June 5, 1992 (57 FR 11580), August 10, 1992 (57 FR 24757), June 11, 1995 (60 FR 18549), January 19, 1999 (63 FR 56086), July 1, 2002 (67 FR 44069), and March 10, 2004 (69 FR 11322). EPA first codified Idaho's authorized hazardous waste program effective February 4, 1991 (55 FR 50327), and updated the codification of Idaho's program on June 5, 1992 (57 FR 11580), August 10, 1992 (57 FR 24757), and August 24, 1999 (64 FR 34133). In this action, EPA revises Subpart N of 40 CFR part 272, to include the recent authorization revision actions effective July 1, 2002 (67 FR 44069) and March 10, 2004 (69 FR 11322).

C. What Decisions Have We Made in This Action?

Today's action codifies EPA's authorization of revisions to Idaho's hazardous waste management program. This codification incorporates by reference the most recent version of the State's authorized hazardous waste management regulations. This action does not reopen any decision EPA previously made concerning the authorization of the State's hazardous waste management program.

EPA is incorporating by reference the authorized revisions to the Idaho hazardous waste program by revising subpart N of 40 CFR part 272. 40 CFR part 272, subpart N, § 272.651 previously incorporated by reference Idaho's authorized hazardous waste program, as amended, through 1999. Section 272.651 also references the demonstration of adequate enforcement authority, including procedural and