

department will work with the applicant and the person who submitted comments, if other than the applicant, to resolve the concern. If the applicant or the other person who commented is not satisfied with the results of the negotiations, the commentor will be given 30 days from receiving the department's final permit decision to request a contested case hearing on the final permit decision.

(4) Substantive changes were made to section 74:36:04:18, Operating permit revision. This section allows a facility to revise an existing permit. The changes modify this section to clarify what is necessary to revise an existing facility permit.

(5) Substantive changes were made to section 74:36:04:19 and 74:36:04:20. These sections identify permit revisions that are eligible for an administrative permit amendment. The State has revised these sections: to clarify what the facility needs to submit to revise a permit through the administrative permit amendment process; delete repetition in the rules; allow facilities to implement a proposed revision that is considered an administrative permit amendment immediately upon notifying the department; and require the department to determine if an administrative permit amendment is applicable to the proposed revision within 15 days of receiving a request for a permit revision.

(6) Substantive changes were made to section 74:36:04:20.01, Minor permit amendment required. This section identifies permit revisions that are eligible for a minor permit amendment. The State is revising this section to clarify that a source may request a minor permit amendment, through the administrative permit amendment process discussed above, for a change that does not constitute a modification and is not prohibited under any applicable requirement under Title I of the Clean Air Act.

(7) Substantive changes were made to section 74:36:04:20.04, Department deadline to approve minor permit amendment. This section outlines the time line for reviewing a proposed permit revision to determine if it is a minor permit amendment. This section has been revised to explain that a minor permit amendment is issued by the secretary without the procedural requirements applicable to obtain an operating permit. Additionally, this section has been revised to allow a facility to make the proposed minor change seven days after notifying the Department.

(8) Minor changes were made to section 74:36:04:22, Source status

change—New permit required. The State has revised a reference in this section.

We have reviewed the revisions identified in (1) through (8) above. We believe the revisions are acceptable and are proposing to approve them into the SIP.

D. Chapter 74:36:05 SDAPCP—Operating Permits for Part 70 Sources

The State's May 6, 1999 submittal made revisions to Chapter 74:36:05—Operating Permits for Part 70 Sources. We believe we have no legal basis in the Act for approving any provisions of the operating permit program into the SIP. Therefore, we are not taking action to incorporate Chapter 74:36:05—Operating Permits for Part 70 Sources, or the revisions submitted on May 6, 1999, into the SIP. However, we fully approved South Dakota's Title V program on January 29, 1996 (61 FR 2720). We will take appropriate action on the revisions to South Dakota Title V program at a later date.

E. Chapter 74:36:06 SDAPCP—Regulated Air Pollutant Emissions

The State's May 6, 1999 submittal made the following revisions to Chapter 74:36:06—Regulated Air Pollutant Emissions:

1. Minor changes were made to the following sections: Allowable emissions for fuel burning units (section 74:36:06:02) and Allowable emissions for process industry units (section 74:36:06:03).

2. Substantive changes were made to Open burning practices prohibited (section 74:36:06:07). Specifically, the State added a sentence to section 74:36:06:07(1) that reads, "an exception for crude oil is allowed as a remediation alternative for soils contaminated with crude oil if a person submits the information requested in § 74:10:05:11.04 and the secretary approves the alternative remediation process; * * *" We believe that this is not a relaxation of the open burning rules. The State's open burning rules were revised in 1996. Prior to the 1996 revisions, the open burning rules were written broadly and listed what could be burned. In December 1996, the State revised and condensed the open burning rules. The rules were written to indicate what could not be burned. We approved the December 1996 rules on October 19, 1998 (63 FR 55804). The State believes it inadvertently failed to incorporate the exemption for soils contaminated with crude oil when it revised the rules in December 1996. Therefore, adding the exemption for soil contaminated with crude oil should not

be considered a relaxation.

Additionally, the State has indicated that the burning of spilled crude oil has occurred infrequently. They recall only one time when crude contaminated soil was burned in the oil fields in northwestern South Dakota.

We have reviewed the revisions identified in (1) and (2). We believe the revisions are acceptable and are proposing to approve them into the SIP.

F. Chapter 74:36:07 SDAPCP—New Source Performance Standards

The State's May 6, 1999 and June 30, 2000 submittals made the following revisions to Chapter 74:36:07—New Source Performance Standards:

1. The May 6, 1999 submittal added provisions for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996 (74:36:07:06.1) and for those on which construction commenced after June 20, 1996 (74:36:07:06.2); modified previously adopted provisions for municipal combustors constructed after September 20, 1994 (74:36:07:07.1); modified previously adopted provisions for existing municipal solid waste landfills (74:36:07:34–42) and for new municipal solid waste landfills (74:36:07:43); and deleted a permitting provision for asphalt plants (section 74:36:07:11). Except for the provisions for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996 (section 74:36:07:06.01) and municipal solid waste landfills (section 74:36:07:34–42), which we discuss below, we already approved these as SIP revisions on May 22, 2000 (65 FR 32033).

2. The June 30, 2000 submittal requested that new source performance standards (NSPS) regulations currently in the SIP be removed from the SIP and delegated to the State. In addition, the June 30, 2000 submittal references more recent versions of the Code of Federal Regulations (CFR). Except for the revisions to sections 74:36:07:34–42 and 74:36:07:06.1, we already addressed the June 30, 2000 revisions in the **Federal Register** on September 11, 2002 (67 FR 57520). The revisions to sections 74:36:07:34–42 and 74:36:07:06.1 are discussed below.

With respect to the rules added and modified for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996 (section 74:36:07:06.01), we believe we have no legal basis in the Act for approving these rules into the SIP because these rules are not generally related to attainment or maintenance of the NAAQS. Therefore, we are not taking action to incorporate section