Environmental Protection Agency

§ 49.134 Rule for forestry and silvicultural burning permits.

(a) What is the purpose of this section? This section establishes a permitting program for forestry and silvicultural burning within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter.

(b) Who is affected by this section? This section applies to any person who conducts forestry or silvicultural burning.

(c) What are the requirements for forestry and silvicultural burning? (1) A person must apply for a permit to conduct a forestry or silvicultural burn, obtain approval of the permit on the day of the burn, have the permit available on-site during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain approval of a permit under this section is identified in the implementation plan in subpart M of this part for the specific reservation where this section applies.

(3) A person must comply with § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of local fire departments or other governmental jurisdictions.

(d) Are there additional requirements that must be met? (1) A person subject to this section must submit an application to the Regional Administrator for each proposed forestry or silvicultural burn. An application must contain, at a minimum, the following information:

(i) Street address of the property upon which the proposed forestry or silvicultural burning will occur or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, and telephone number of the person who will be responsible for conducting the proposed forestry or silvicultural burning.

(iii) A plot plan showing the location of the proposed forestry or silvicultural burning in relation to the property lines and indicating the distances and directions of the nearest residential,
§ 49.135 Rule for emissions detrimental to public health or welfare.

(a) What is the purpose of this section? This section is intended to prevent the emission of air pollutants from any air pollution source operating within the Indian reservation from being detrimental to public health or welfare.

(b) Who is affected by this section? This section applies to any person who owns or operates an air pollution source.

(c) What are the requirements for air pollution sources? (1) A person must not cause or allow the emission of any air pollutants from an air pollution source, in sufficient quantities and of such characteristic and duration, that the Regional Administrator determines:

(i) Causes or contributes to a violation of any national ambient air quality standard; or

(ii) Is presenting an imminent and substantial endangerment to public health or welfare, or the environment.

(2) If the Regional Administrator makes either of the determinations in paragraph (c)(1) of this section, then the Regional Administrator may require the owner or operator of the source to install air pollution controls and/or to take reasonable precautions to reduce or prevent the emissions. If the Regional Administrator determines that the installation of air pollution controls and/or reasonable precautions are necessary, then the Regional Administrator will require the owner or operator to obtain a permit to construct or permit to operate for the source. The specific requirements will be established in the required permit to construct or permit to operate.

(3) Nothing in this section affects the ability of the Regional Administrator to issue an order pursuant to section 303 of the Act to require an owner or operator to immediately reduce or cease the emission of air pollutants.

(4) Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air pollutant in such place, manner, or amount as to constitute a common law nuisance.

(d) What does someone subject to this section need to do? A person subject to