

§ 49.130

40 CFR Ch. I (7-1-14 Edition)

§ 49.130 Rule for limiting sulfur in fuels.

(a) *What is the purpose of this section?* This section limits the amount of sulfur contained in fuels that are burned at stationary sources within the Indian reservation to control emissions of sulfur dioxide (SO₂) to the atmosphere and ground-level concentrations of SO₂.

(b) *Who is affected by this section?* This section applies to any person who sells, distributes, uses, or makes available for use, any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel within the Indian reservation.

(c) *What is exempted from this section?* This section does not apply to gasoline and diesel fuel, such as automotive and marine diesel, regulated under 40 CFR part 80.

(d) *What are the sulfur limits for fuels?* A person must not sell, distribute, use, or make available for use any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel that contains more than the following amounts of sulfur:

- (1) For distillate fuel oil, 0.3 percent by weight for ASTM Grade 1 fuel oil;
- (2) For distillate fuel oil, 0.5 percent by weight for ASTM Grade 2 fuel oil;
- (3) For residual fuel oil, 1.75 percent sulfur by weight for ASTM Grades 4, 5, or 6 fuel oil;
- (4) For used oil, 2.0 percent sulfur by weight;
- (5) For any liquid fuel not listed in paragraphs (d)(1) through (d)(4) of this section, 2.0 percent sulfur by weight;
- (6) For coal, 1.0 percent sulfur by weight;
- (7) For solid fuels, 2.0 percent sulfur by weight;
- (8) For gaseous fuels, 1.1 grams of sulfur per dry standard cubic meter of gaseous fuel (400 parts per million at standard conditions).

(e) *What are the reference methods for determining compliance?* The reference methods for determining the amount of sulfur in a fuel are as follows:

- (1) Sulfur content in fuel oil or liquid fuels: ASTM methods D2880-03, D4294-03, and D6021-96 (Reapproved 2001)€¹ (incorporated by reference, see § 49.123(e));
- (2) Sulfur content in coal: ASTM methods D3177-02, D4239-04a, and D2492-02 (incorporated by reference, see § 49.123(e));

(3) Sulfur content in solid fuels: ASTM method E775-87€¹ (Reapproved 2004) (incorporated by reference, see § 49.123(e));

(4) Sulfur content in gaseous fuels: ASTM methods D1072-90 (Reapproved 1999), D3246-96, D4084-94€¹ (Reapproved 1999), D5504-01, D4468-85€¹ (Reapproved 2000), D2622-03, and D6228-98€¹ (Reapproved 2003) (incorporated by reference, see § 49.123(e)).

(f) *Are there additional requirements that must be met?* (1) A person subject to this section must:

(i) For fuel oils and liquid fuels, obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of fuel. If the vendor is unable to provide this information, then obtain a representative grab sample for each purchase and test the sample using the reference method.

(ii) For gaseous fuels, either obtain, record, and keep records of the sulfur content from the vendor, or continuously monitor the sulfur content of the fuel gas line using a method that meets the requirements of Performance Specification 5, 7, 9, or 15 (as applicable for the sulfur compounds in the gaseous fuel) of appendix B and appendix F of 40 CFR part 60. If only purchased natural gas is used, then keep records showing that the gaseous fuel meets the definition of natural gas in 40 CFR 72.2.

(iii) For coal and solid fuels, either obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of coal or solid fuel, or obtain a representative grab sample for each day of operation and test the sample using the reference method. If only wood is used, then keep records showing that only wood was used. The owner or operator of a coal- or solid fuel-fired source may apply to the Regional Administrator for a waiver of this provision or for approval of an alternative fuel sampling program.

(2) Records of fuel purchases and fuel sulfur content must be kept for a period of five years from date of purchase and must be made available to the Regional Administrator upon request.

(3) The owner or occupant of a single-family residence, and the owner or manager of a residential building with four or fewer dwelling units, is not subject to the requirement to obtain and

record the percent sulfur content from the vendor if the fuel used in an oil, coal, or gas furnace is purchased from a licensed fuel distributor.

(g) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, air pollutant, ambient air, coal, distillate fuel oil, emission, fuel, fuel oil, gaseous fuel, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, owner or operator, reference method, refuse, Regional Administrator, residual fuel oil, solid fuel, source, standard conditions, stationary source, used oil, and wood.

§ 49.131 General rule for open burning.

(a) *What is the purpose of this section?* This section limits the types of materials that can be openly burned within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter. It is EPA's goal to eliminate open burning disposal practices where alternative methods are feasible and practicable, to encourage the development of alternative disposal methods, to emphasize resource recovery, and to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible.

(b) *Who is affected by this section?* This section applies to any person who conducts open burning and to the owner of the property upon which open burning is conducted.

(c) *What is exempted from this section?* The following open fires are exempted from this section:

(1) Outdoor fires set for cultural or traditional purposes;

(2) Fires set for cultural or traditional purposes within structures such as sweat houses or lodges;

(3) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section, fires set for recreational purposes provided that no prohibited materials are burned;

(4) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section and with prior permission from the Regional Administrator, open out-

door fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, provided that training fires are not allowed to smolder after the training session has terminated. Prior to igniting any structure, the fire protection service must ensure that the structure does not contain any asbestos or asbestos-containing materials; batteries; stored chemicals such as pesticides, herbicides, fertilizers, paints, glues, sealers, tars, solvents, household cleaners, or photographic reagents; stored linoleum, plastics, rubber, tires, or insulated wire; or hazardous wastes. Before requesting permission from the Regional Administrator, the fire protection service must notify any appropriate Tribal air pollution authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable laws and ordinances;

(5) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section and with prior permission from the Regional Administrator, one open outdoor fire each year to dispose of fireworks and associated packaging materials. Before requesting permission from the Regional Administrator, the owner or operator must notify any appropriate Tribal air pollution authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable laws and ordinances;

(6) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section, open burning for the disposal of diseased animals or other material by order of a public health official.

(d) *What are the requirements for open burning?* (1) A person must not openly burn, or allow the open burning of, the following materials:

- (i) Garbage;
- (ii) Dead animals or parts of dead animals;
- (iii) Junked motor vehicles or any materials resulting from a salvage operation;
- (iv) Tires or rubber materials or products;
- (v) Plastics, plastic products, or styrofoam;