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(vi) Asphalt or composition roofing, or any other asphaltic material or product;

(vii) Tar, tarpaper, petroleum products, or paints;

(viii) Paper, paper products, or cardboard other than what is necessary to start a fire or that is generated at single-family residences or residential buildings with four or fewer dwelling units and is burned at the residential site;

(ix) Lumber or timbers treated with preservatives;

(x) Construction debris or demolition waste;

(xi) Pesticides, herbicides, fertilizers, or other chemicals;

(xii) Insulated wire;

(xiii) Batteries;

(xiv) Light bulbs;

(xv) Materials containing mercury (e.g., thermometers);

(xvi) Asbestos or asbestos-containing materials;

(xvii) Pathogenic wastes;

(xviii) Hazardous wastes; or

(xix) Any material other than natural vegetation that normally emits dense smoke or noxious fumes when burned.

(2) Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited whenever the Regional Administrator declares a burn ban due to deteriorating air quality. A burn ban may be declared whenever the Regional Administrator determines that air quality levels have exceeded, or are expected to exceed, 75% of any national ambient air quality standard for particulate matter, and these levels are projected to continue or reoccur over at least the next 24 hours.

(3) Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited whenever the Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency pursuant to § 49.137 Rule for air pollution episodes.

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

(e) *Are there additional requirements that must be met?* (1) A person subject to this section must conduct open burning as follows:

(i) All materials to be openly burned must be kept as dry as possible through the use of a cover or dry storage;

(ii) Before igniting a burn, non-combustibles must be separated from the materials to be openly burned to the greatest extent practicable;

(iii) Natural or artificially induced draft must be present, including the use of blowers or air curtain incinerators where practicable;

(iv) To the greatest extent practicable, materials to be openly burned must be separated from the grass or peat layer; and

(v) A fire must not be allowed to smolder.

(2) Except for exempted fires set for cultural or traditional purposes, a person must not initiate any open burning when:

(i) The Regional Administrator has declared a burn ban;

(ii) An air stagnation advisory has been issued or an air pollution alert, warning, or emergency has been declared by the Regional Administrator.

(3) Except for exempted fires set for cultural or traditional purposes, any person conducting open burning when such an advisory is issued or declaration is made must either immediately extinguish the fire, or immediately withhold additional material such that the fire burns down.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, ambient air, emission, open burning, particulate matter, PM10, PM2.5, Regional Administrator, stack, and uncombined water.

§ 49.132 Rule for general open burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for open 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.

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(b) *Who is affected by this section?* This section applies to any person who conducts open burning.

(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) Fires set for recreational purposes, provided that no prohibited materials are burned;

(4) Forestry and silvicultural burning; and

(5) Agricultural burning.

(d) *What are the requirements for open burning?* (1) A person must apply for and obtain a permit for the open burn, have the permit available on-site during the open burn, and conduct the open burning in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain 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 the § 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.

(e) *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 open burn. An application must be submitted in writing at least one working day, and no earlier than five working days, prior to the requested date that the burn would be conducted, and must contain, at a minimum, the following information:

(i) Street address of the property upon that the proposed open 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 open burning.

(iii) A plot plan showing the location of the proposed open burning in relation to the property lines and indicating the distances and directions of the nearest residential and commercial properties.

(iv) The type and quantity of materials proposed to be burned, including the estimated volume of material to be burned and the area over which burning will be conducted.

(v) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water.

(vi) The requested date when the proposed open burning would be conducted and the duration of the burn if it is more than one day.

(vii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed open burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may issue a burn permit. The permit will authorize burning only for the requested date(s) and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, and to protect the public health and welfare.

(3) When reviewing an application, the Regional Administrator will take into consideration relevant factors including, but not limited to, the size, duration, and location of the proposed open burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area. Where the Regional Administrator determines that the proposed open burning can be conducted without causing an adverse impact on air quality, a permit may be issued.

(4) The Regional Administrator, to the extent practical, will coordinate the issuance of open burning permits with the open burning permit programs of surrounding jurisdictions.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123

General provisions: Agricultural burning, air pollutant, ambient air, emission, forestry or silvicultural burning, open burning, particulate matter, PM10, PM2.5, Regional Administrator, stack, and uncombined water.

§ 49.133 Rule for agricultural burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for agricultural 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 agricultural burning.

(c) *What are the requirements for agricultural burning?* (1) A person must apply for a permit to conduct an agricultural burn, obtain approval of the permit on the day of the burn, have the permit available onsite 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 agricultural burn. An application must contain, at a minimum, the following information:

(i) Street address of the property upon which the proposed agricultural 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 applicant and the person who will be responsible for con-

ducting the proposed agricultural burning.

(iii) A plot plan showing the location of each proposed agricultural burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, roads, and other areas that could be impacted by the burning.

(iv) The type and quantity of agricultural wastes proposed to be burned, including the estimated weight of material to be burned and the area over which burning will be conducted.

(v) A description of the burning method(s) to be used (pile or stack burn, open field or broadcast burn, windrow burn, mobile field sanitizer, etc.) and the amount of material to be burned with each method.

(vi) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and plowed firebreaks.

(vii) The requested date(s) when the proposed agricultural burning would be conducted.

(viii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed agricultural burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may approve the agricultural burning permit and authorize burning on the day burning is to be conducted after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area; and

(ii) Other factors indicating whether or not the proposed agricultural burning can be conducted without causing an adverse impact on air quality.

(3) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

(e) *Definitions of terms used in this section.* The following terms that are used