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oil, smudge pot, solid fuel, solid fuel-fired boiler, soot blowing, stack, standard conditions, start-up, stationary source, uncombined water, used oil, visible emissions, and wood.

§ 49.125 Rule for limiting the emissions of particulate matter.

(a) *What is the purpose of this section?* This section limits the amount of particulate matter that may be emitted from certain air pollution sources operating within the Indian reservation to control ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that emits, or could emit, particulate matter to the atmosphere, unless exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to woodwaste burners, furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 British thermal units (Btu) per hour, non-commercial smoke houses, sweat houses or lodges, open burning, and mobile sources.

(d) *What are the particulate matter limits for air pollution sources?* (1) Particulate matter emissions from a combustion source stack (except for wood-fired boilers) must not exceed an average of 0.23 grams per dry standard cubic meter (0.1 grains per dry standard cubic foot), corrected to seven percent oxygen, during any three-hour period.

(2) Particulate matter emissions from a wood-fired boiler stack must not exceed an average of 0.46 grams per dry standard cubic meter (0.2 grains per dry standard cubic foot), corrected to seven percent oxygen, during any three-hour period.

(3) Particulate matter emissions from a process source stack, or any other stack not subject to paragraph (d)(1) or (d)(2) of this section, must not exceed an average of 0.23 grams per dry standard cubic meter (0.1 grains per dry standard cubic foot) during any three-hour period.

(e) *What is the reference method for determining compliance?* The reference method for determining compliance with the particulate matter limits is

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EPA Method 5. A complete description of this method is found in appendix A of 40 CFR part 60.

(f) *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, air pollution source, ambient air, British thermal unit (Btu), coal, combustion source, distillate fuel oil, emission, fuel, fuel oil, gaseous fuel, heat input, incinerator, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, open burning, particulate matter, PM10, PM2.5, process source, reference method, refuse, residual fuel oil, solid fuel, stack, standard conditions, stationary source, uncombined water, used oil, wood, wood-fired boiler, and woodwaste burner.

§ 49.126 Rule for limiting fugitive particulate matter emissions.

(a) *What is the purpose of this section?* This section limits the amount of fugitive particulate matter that may be emitted from certain air pollution sources operating within the Indian reservation to control ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a source of fugitive particulate matter emissions.

(c) *What is exempted from this section?* This section does not apply to open burning, agricultural activities, forestry and silvicultural activities, sweat houses or lodges, non-commercial smoke houses, public roads owned or maintained by any Federal, Tribal, State, or local government, or activities associated with single-family residences or residential buildings with four or fewer dwelling units.

(d) *What are the requirements for sources of fugitive particulate matter emissions?* (1) The owner or operator of any source of fugitive particulate matter emissions, including any source or activity engaged in materials handling or storage, construction, demolition, or any other operation that is or may be a source of fugitive particulate matter emissions, must take all reasonable

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precautions to prevent fugitive particulate matter emissions and must maintain and operate the source to minimize fugitive particulate matter emissions.

(2) Reasonable precautions include, but are not limited to the following:

(i) Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, grading of roads, or clearing of land.

(ii) Application of asphalt, oil (but not used oil), water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces that can create airborne dust.

(iii) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals is not sufficient or appropriate to prevent particulate matter from becoming airborne.

(iv) Implementation of good housekeeping practices to avoid or minimize the accumulation of dusty materials that have the potential to become airborne, and the prompt cleanup of spilled or accumulated materials.

(v) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials.

(vi) Adequate containment during sandblasting or other similar operations.

(vii) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.

(viii) The prompt removal from paved streets of earth or other material that does or may become airborne.

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

(i) Annually survey the air pollution source(s) during typical operating conditions and meteorological conditions conducive to producing fugitive dust to determine the sources of fugitive particulate matter emissions. For new sources or new operations, a survey must be conducted within 30 days after commencing operation. Document the results of the survey, including the date and time of the survey and identification of any sources of fugitive particulate matter emissions found.

(ii) If sources of fugitive particulate matter emissions are present, determine the reasonable precautions that will be taken to prevent fugitive particulate matter emissions.

(iii) Prepare, and update as necessary following each survey, a written plan that specifies the reasonable precautions that will be taken and the procedures to be followed to prevent fugitive particulate matter emissions, including appropriate monitoring and recordkeeping. For construction or demolition activities, a written plan must be prepared prior to commencing construction or demolition.

(iv) Implement the written plan, and maintain and operate the source to minimize fugitive particulate matter emissions.

(v) Maintain records for five years that document the surveys and the reasonable precautions that were taken to prevent fugitive particulate matter emissions.

(2) The Regional Administrator may require specific actions to prevent fugitive particulate matter emissions, or impose conditions to maintain and operate the air pollution source to minimize fugitive particulate matter emissions, in a permit to construct or a permit to operate for the source.

(3) Efforts to comply with this section cannot be used as a reason for not complying with other applicable laws and ordinances.

(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 activities, air pollutant, air pollution source, ambient air, emission, forestry or silvicultural activities, fugitive dust, fugitive particulate matter, owner or operator, particulate matter, permit to construct, permit to operate, PM10, PM2.5, Regional Administrator, source, stack, and uncombined water.

§ 49.127 Rule for woodwaste burners.

(a) *What is the purpose of this section?* This section phases out the operation of woodwaste burners (commonly known as wigwam or teepee burners), and in the interim, limits the visible emissions from woodwaste burners within the Indian reservation to control emissions of particulate matter to