

§ 49.140

owner or operator, potential to emit, and Regional Administrator.

FEDERAL IMPLEMENTATION PLAN FOR OIL AND NATURAL GAS PRODUCTION FACILITIES, FORT BERTHOLD INDIAN RESERVATION (MANDAN, HIDATSA AND ARIKARA NATIONS) IN EPA REGION 8

§ 49.140 Introduction.

(a) *What is the purpose of §§ 49.140 through 49.147?* Sections 49.140 through 49.147 establish legally and practicably enforceable requirements to control and reduce VOC emissions from well completion operations, well recompletion operations, production operations, and storage operations at existing, new and modified oil and natural gas production facilities.

(b) *Am I subject to §§ 49.140 through 49.147?* Sections 49.140 through 49.147 apply to each owner or operator constructing or operating an oil and natural gas production facility producing from the Bakken Pool with one or more oil and natural gas wells, for any one of which completion or recompletion operations are/were performed on or after August 12, 2007, that is located on the Fort Berthold Indian Reservation, which is defined by the Act of March 3, 1891 (26 Statute 1032) and which includes all lands added to the Reservation by Executive Order of June 17, 1892 (the "Fort Berthold Indian Reservation").

(c) *When must I comply with §§ 49.140 through 49.147?* Compliance with §§ 49.140 through 49.147 is required no later than November 13, 2012 or upon initiation of completion or recompletion operations, whichever is later.

[77 FR 48893, Aug. 15, 2012]

§ 49.141 Delegation of authority of administration to the tribes.

(a) *What is the purpose of this section?* The purpose of this section is to establish the process by which the Regional Administrator may delegate to the Mandan, Hidatsa and Arikara Nations the authority to assist the EPA with administration of this Federal implementation plan (FIP). This section provides for administrative delegation and does not affect the eligibility criteria under 40 CFR 49.6 for treatment in the same manner as a State.

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

(b) *How does the Tribe request delegation?* In order to be delegated authority to assist us with administration of this FIP, the authorized representative of the Mandan, Hidatsa and Arikara Nations must submit a request to the Regional Administrator that:

(1) Identifies the specific provisions for which delegation is requested;

(2) Includes a statement by the Mandan, Hidatsa and Arikara Nations' legal counsel (or equivalent official) that includes the following information:

(i) A statement that the Mandan, Hidatsa and Arikara Nations are an Indian Tribe recognized by the Secretary of the Interior;

(ii) A descriptive statement demonstrating that the Mandan, Hidatsa and Arikara Nations are currently carrying out substantial governmental duties and powers over a defined area and that meets the requirements of § 49.7(a)(2); and

(iii) A description of the laws of the Mandan, Hidatsa and Arikara Nations that provide adequate authority to carry out the aspects of the rule for which delegation is requested.

(3) Demonstrates that the Mandan, Hidatsa and Arikara Nations have, or will have, adequate resources to carry out the aspects of the rule for which delegation is requested.

(c) *How is the delegation of administration accomplished?* (1) A Delegation of Authority Agreement will set forth the terms and conditions of the delegation, will specify the rule and provisions that the Mandan, Hidatsa and Arikara Nations shall be authorized to implement on behalf of the EPA, and shall be entered into by the Regional Administrator and the Mandan, Hidatsa and Arikara Nations. The Agreement will become effective upon the date that both the Regional Administrator and the authorized representative of the Mandan, Hidatsa and Arikara Nations have signed the Agreement. Once the delegation becomes effective, the Mandan, Hidatsa and Arikara Nations will be responsible, to the extent specified in the Agreement, for assisting us with administration of the FIP and shall act as the Regional Administrator as that term is used in these

regulations. Any Delegation of Authority Agreement will clarify the circumstances in which the term “Regional Administrator” found throughout the FIP is to remain the EPA Regional Administrator and when it is intended to refer to the “Mandan, Hidatsa and Arikara Nations,” instead.

(2) A Delegation of Authority Agreement may be modified, amended, or revoked, in part or in whole, by the Regional Administrator after consultation with the Mandan, Hidatsa and Arikara Nations.

(d) *How will any delegation of authority agreement be publicized?* The Regional Administrator shall publish a notice in the FEDERAL REGISTER informing the public of any delegation of authority agreement with the Mandan, Hidatsa and Arikara Nations to assist us with administration of all or a portion of the FIP and will identify such delegation in the FIP. The Regional Administrator shall also publish an announcement of the delegation of authority agreement in local newspapers.

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§ 49.142 General provisions.

(a) *Definitions.* As used in §§ 49.140 through 49.147, all terms not defined herein shall have the meaning given them in the Act, in subpart A and subpart OOOO of 40 CFR part 60, in the Prevention of Significant Deterioration regulations at 40 CFR 52.21, or in the Federal Minor New Source Review Program in Indian Country at 40 CFR 49.151. The following terms shall have the specific meanings given them.

(1) *Bakken Pool* means Oil produced from the Bakken, Three Forks, and Sanish Formations.

(2) *Breathing losses* means natural gas emissions from fixed roof tanks resulting from evaporative losses during storage.

(3) *Casinghead natural gas* means the associated natural gas that naturally dissolves out of reservoir fluids during well completion operations and recompletion operations due to the pressure relief that occurs as the reservoir fluids travel up the well casinghead.

(4) *Closed vent system* means a system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections, and, if necessary,

flow-inducing devices that transport natural gas from a piece or pieces of equipment to a control device or back to a process.

(5) *Enclosed combustor* means a thermal oxidation system with an enclosed combustion chamber that maintains a limited constant temperature by controlling fuel and combustion air.

(6) *Existing facility* means an oil and natural gas production facility that begins actual construction prior to the effective date of the “Federal Implementation Plan for Oil and Natural Gas Production Facilities, Fort Berthold Indian Reservation (Mandan, Hidatsa and Arikara Nations)”.

(7) *Flashing losses* means natural gas emissions resulting from the presence of dissolved natural gas in the produced oil and the produced water, both of which are under high pressure, that occurs as the produced oil and produced water is transferred to storage tanks or other vessels that are at atmospheric pressure.

(8) *Modified facility* means a facility which has undergone the addition, completion, or recompletion of one or more oil and natural gas wells, and/or the addition of any associated equipment necessary for production and storage operations at an existing facility.

(9) *New facility* means an oil and natural gas production facility that begins actual construction after the effective date of the “Federal Implementation Plan for Oil and Natural Gas Production Facilities, Fort Berthold Indian Reservation (Mandan, Hidatsa and Arikara Nations)”.

(10) *Oil* means hydrocarbon liquids.

(11) *Oil and natural gas production facility* means all of the air pollution emitting units and activities located on or integrally connected to one or more oil and natural gas wells that are necessary for production operations and storage operations.

(12) *Oil and natural gas well* means a single well that extracts subsurface reservoir fluids containing a mixture of oil, natural gas, and water.

(13) *Owner or operator* means any person who owns, leases, operates, controls, or supervises an oil and natural gas production facility.