

Environmental Protection Agency

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§§ 49.472–49.680 [Reserved]

Subpart F—Implementation Plans for Tribes—Region III

§§ 49.681–49.710 [Reserved]

Subpart G—Implementation Plans for Tribes—Region IV

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Subpart K—Implementation Plans for Tribes—Region VIII

FEDERAL IMPLEMENTATION PLAN FOR OIL AND NATURAL GAS WELL PRODUCTION FACILITIES; FORT BERTHOLD INDIAN RESERVATION (MANDAN, HIDATSA AND ARIKARA NATION), NORTH DAKOTA

SOURCE: 78 FR 17858, Mar. 22, 2013, unless otherwise noted.

§ 49.4161 Introduction.

(a) *What is the purpose of §§ 49.4161 through 49.4168?* Sections 49.4161 through 49.4168 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 §§ 49.4161 through 49.4168?* Sections 49.4161 through 49.4168 apply to each owner or operator constructing, modifying 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”). For the purposes of this subpart, the date that the first well completion operation at a new oil and natural gas production facility was initiated is the date that initial construction has commenced. For the purposes of this subpart, the date that a new well completion operation or the date that an existing well recompletion operation at an existing oil and natural gas production facility is initiated is the date that a modification has commenced.

(c) *When must I comply with §§ 49.4161 through 49.4168?* Compliance with §§ 49.4161 through 49.4168 is required no later than June 20, 2013 or upon initiation of well completion operations or well recompletion operations, whichever is later.

§ 49.4162 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 Nation 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.

(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 Nation 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 Nation’s legal counsel (or equivalent official) that includes the following information:

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

(ii) A descriptive statement demonstrating that the Mandan, Hidatsa and Arikara Nation 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 Nation 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 Nation 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 Nation 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 Nation. The Agreement will become effective upon the date that both the Regional Administrator and the authorized representative of the Mandan, Hidatsa and Arikara Nation have signed the Agreement. Once the delegation becomes effective, the Mandan, Hidatsa and Arikara Nation will be responsible, to the extent specified in the Agreement, for assisting us with administration of this 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 this FIP is to remain the EPA Regional Administrator and when it is intended to refer to the "Mandan, Hidatsa and Arikara Nation," 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 Nation.

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(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 Nation to assist us with administration of all or a portion of this 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.

§ 49.4163 General provisions.

(a) *Definitions.* As used in §§ 49.4161 through 49.4168, 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 Well Production Facilities; Fort