

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.

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§ 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.

(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