



# Federal Register

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**Wednesday,  
October 8, 2003**

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**Part II**

## **Environmental Protection Agency**

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**40 CFR Part 63**

**National Emission Standards for  
Hazardous Air Pollutants: Site  
Remediation; Final Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[OAR 2002-0021; FRL-7549-3]

RIN 2060-AH-12

**National Emission Standards for Hazardous Air Pollutants: Site Remediation**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action promulgates national emission standards for hazardous air pollutants (NESHAP) from site remediations. The final rule implements the Clean Air Act (CAA) section 112(d) to control hazardous air pollutants (HAP) emissions at major sources where remediation technologies and practices are used at the site to clean up contaminated environmental media (e.g., soils, groundwaters, or surface waters) or certain stored or disposed materials that pose a reasonable potential threat to contaminate environmental media. Site

remediations subject to the final rule are required to control emissions of organic HAP by meeting emissions limitations and work practice standards reflecting the application of maximum achievable control technology (MACT). The final rule applies to certain types of site remediation activities that are conducted at a facility where non-remediation sources are a major source of HAP emissions. Some site remediations already regulated by rules established under the Comprehensive Environmental Response and Compensation Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA) are not subject to the final rule.

The HAP emitted by site remediation activities can include benzene, ethyl benzene, toluene, vinyl chloride, xylenes, and other volatile organic compounds (VOC). The range of potential human health effects associated with exposure to these organic HAP and VOC include cancer, aplastic anemia, upper respiratory tract irritation, liver damage, and neurotoxic effects (e.g., headache, dizziness, nausea, tremors).

**EFFECTIVE DATE:** October 8, 2003.

**ADDRESSES:** *Docket.* The official public docket is the collection of materials used in developing the final rule and is available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA Regional Office representative. For information concerning the analyses performed in developing the final rule, contact Mr. Greg Nizich, Waste and Chemical Processes Group, Emission Standards Division (C439-03), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-3078, facsimile number (919) 541-0246, electronic mail (e-mail) address [nizich.greg@epa.gov](mailto:nizich.greg@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	NAICS <sup>1</sup>	Examples of regulated entities
Industry .....	325211, 325192, 325188, 32411, 49311, 49319, 48611, 42269, 42271.	Site remediation activities at businesses at which materials containing organic HAP currently are or have been in the past stored, processed, treated, or otherwise managed at the facility. These facilities include: organic liquid storage terminals, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with co-located site remediation activities.
Federal Government .....	.....	Federal agency facilities that conduct site remediation activities to clean up materials contaminated with organic HAP.
State/Local/Tribal Government.	.....	Tribal governments that conduct site remediation activities to clean up materials contaminated with organic HAP.

<sup>1</sup> North American Industry Classification System (NAICS) code. Representative industrial codes at which site remediation activities have been or are currently conducted at some but not all facilities under a given code. The list is not necessarily comprehensive as to the types of facilities at which a site remediation cleanup may potentially be required either now or in the future.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action.

A comprehensive list of NAICS codes cannot be compiled for businesses or facilities potentially regulated by the final rule due to the nature of activities regulated by the source category. The industrial code alone for a given facility does not determine whether the facility is or is not potentially subject to the final rule. The final rule may be applicable to any type of business or facility at which a site remediation is conducted to clean up media contaminated with organic HAP and other hazardous material. Thus, for

many businesses and facilities subject to the final rule, the regulated sources (*i.e.*, the site remediation activities) are not the predominant activity, process, operation, or service conducted at the facility. In these cases, the industrial code indicates a primary product produced or service provided at the facility rather than the presence of a site remediation performed to support the predominant function of the facility. For example, NAICS code classifications where site remediation activities are currently being performed at some but not all facilities include, but are not limited to, petroleum refineries (NAICS code 32411), industrial organic chemical manufacturing (NAICS code 3251xx), and plastic materials and synthetics manufacturing (NAICS code 3252xx). However, we are also aware of

site remediation activities potentially subject to the final rule being performed at facilities listed under NAICS codes for refuse systems, waste management, business services, miscellaneous services, and nonclassifiable.

To determine whether your facility is regulated by the action, you should carefully examine the applicability criteria in the final rule. If you have questions regarding the applicability of the final rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*Docket.* The EPA has established an official public docket for this action including both Docket ID No. A-99-20 and Docket ID No. OAR-2002-0021. The official public docket consists of the documents specifically referenced in

this action, any public comments received, and other information related to this action. All items may not be listed under both docket numbers, so interested parties should inspect both docket numbers to ensure that they have received all materials relevant to the final rule. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**Electronic Docket Access.** You may access the final rule electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in the above section. Once in the system, select "search," then key in the appropriate docket identification number.

**Worldwide Web (WWW).** In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

**Judicial Review.** The NESHAP for site remediation was proposed on July 30, 2002 (67 FR 49398). Today's final rule announces the EPA's decision on the final rule. Under CAA section 307(b)(1), judicial review of the final rule is

available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 8, 2003. Only those objections to the final rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under CAA section 307(b)(2), the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

**Outline.** The information presented in this preamble is organized as follows:

- I. Background
  - A. What is the statutory authority for the final rule?
  - B. How did we develop the final rule?
  - C. What criteria are used in the development of the final rule?
- II. Summary of Final Rule
  - A. Who must comply with the final rule?
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  - E. What are the requirements for remediation material that is shipped off-site?
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- III. Responses to Major Comments on Proposed Rule
  - A. Why are we promulgating a NESHAP to regulate HAP emissions from site remediation activities?
  - B. How did we select the HAP to be regulated by the final rule?
  - C. How do we define site remediation for the final rule?
  - D. Why does the final rule not apply to CERCLA Superfund and RCRA Corrective Action cleanups?
  - E. Why does the final rule potentially apply to State and voluntary cleanup programs?
  - F. How does the final rule apply to cleanups of leaking underground storage tanks?
  - G. How does the final rule apply to cleanups of radioactive mixed waste?
  - H. How does the final rule apply to short-term site remediations at affected facilities?
  - I. How does the final rule apply to remediation materials sent off-site from affected facilities?
- IV. Summary of Environmental, Energy, and Economic Impacts
  - A. What are the air emission impacts?
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  - C. What are the economic impacts?
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- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Congressional Review Act

## I. Background

### A. What Is the Statutory Authority for the Final Rule?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Major sources of HAP are defined by CAA section 112(a)(1) as those sources that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP. Area sources are stationary sources of HAP that are not major sources. The category of major sources covered by today's final NESHAP for site remediation, was listed on July 16, 1992 (57 FR 31576). We included site remediation on the source category list to address HAP emissions at major sources where remediation technologies and practices are used at the site to clean up contaminated environmental media (e.g., soils, groundwaters, or surface waters) or certain stored or disposed materials that pose a reasonable potential threat to contaminate environmental media.

### B. How Did We Develop the Final Rule?

We proposed the Site Remediation NESHAP on July 30, 2002 (67 FR 49398). A 60-day public comment period (July 30, 2002 to September 30, 2002) was provided for the public to submit their comments on the proposed rule. Also, we offered to hold a public hearing to allow any interested persons to present their oral comments on the proposed rule. However, we did not receive a request from anyone to speak at the public hearing, so a public hearing was not held.

We received a total of 51 comment letters and e-mails regarding the proposed rule. Two commenters affiliated with the U.S. Department of the Navy independently submitted the same set of comments; and two

commenters from the State of Alabama each submitted two separate and distinct sets of comments.

The final rule promulgated by this action reflects our full consideration of all the comments we received on the rule proposal. Our responses to all of the substantive public comments on the proposal are presented in the background information document (BID) titled, "National Emission Standards for Hazardous Air Pollutant (NESHAP) for Site Remediation: Background Information for Promulgated Standards." The BID is available in Docket No. OAR-2002-0021.

### *C. What Criteria Are Used in the Development of the Final Rule?*

Under CAA section 112(d), we are directed to establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires that each NESHAP reflect the maximum degree of reduction in emissions of HAP that is achievable for the source category or subcategory. This level of control is commonly referred to as the maximum achievable control technology (MACT).

The MACT floor is the minimum control level allowed for NESHAP and is defined under CAA section 112(d)(3). Establishing the MACT floor ensures that each standard is set at a level that assures that all major sources within a source category or subcategory achieve a level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in the applicable source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards established for existing sources can be less stringent than standards for new sources, but the existing source standards cannot be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing NESHAP, we also consider control alternatives that are more stringent than the MACT floor. Section 112(d)(2) of the CAA allows us to establish standards that are more stringent than those that would be established by the MACT floor level based on the consideration of costs to achieve the emissions reductions, any health and environmental impacts, and energy requirements.

To determine MACT for the affected sources regulated by the Site Remediation NESHAP, we established at proposal that the MACT floor for existing affected sources associated with site remediation activities is some level of air emission control beyond no controls. Also, we decided to not compute an emission limitation statistically or identify specific control technology that represents the MACT floor for the site remediation sources because of the uniqueness of the site remediation source category, the extent of information available to us, and the complexities of gathering additional meaningful information (see 67 FR 49414-49415). Instead, we relied on provisions of CAA section 112(d)(2) that allow us to select MACT for a source category that is more stringent than the MACT floor.

We chose to select the MACT technology directly from alternatives beyond the MACT floor for each affected source type selected to be subject to the Site Remediation NESHAP. To do this, we looked at the types of air emission controls demonstrated to achieve control levels required under national air standards for sources similar to those sources that potentially may be associated with site remediations (particularly the NESHAP for Off-Site Waste and Recovery Operations under 40 CFR part 63, subpart DD, and the air standards for RCRA hazardous waste treatment, disposal, and facilities (TSDF) under subparts AA, BB, and CC in 40 CFR parts 264 and 265). Because the air emission controls needed to achieve the control levels required under the rules applicable to sources similar to those sources subject to the final Site Remediation NESHAP are now being implemented by facility owners and operators, we concluded that this demonstrates that these control levels are technically achievable, the costs are reasonable, and there are no adverse non-air quality health, environmental impacts, or energy requirements associated with the selected control levels.

Following proposal, we reviewed our data sources to determine the availability of additional information on air pollution controls currently in use for site remediation activities. No new data or information to update and supplement our original data were provided by commenters on the proposed rule. We concluded that our original database remains the best available source of information available to us. The control levels established by the emission limitation and work practices established by the final Site

Remediation NESHAP are the same controls levels being implemented at similar sources subject to other NESHAP and related national air rules.

## **II. Summary of Final Rule**

The final rule amends 40 CFR part 63 by adding subpart GGGGG—National Emission Standards for Hazardous Air Pollutants for Site Remediation. At proposal, we received comments stating that the organization, reliance on presenting many rule requirements in an exclusively tabular format, and extensive cross-referencing to provisions in other subparts which we used for the proposed rule made it difficult to read and understand. We have written the final rule to reflect those comments. Many of the requirements that were presented exclusively in tables in the proposed rule have been moved back into the regulatory text of the final rule, and the applicable tables were deleted. While these editorial changes to the final rule make it appear substantially different from the proposed rule, most of the technical and administrative requirements remain the same as proposed.

### *A. Who Must Comply With the Final Rule?*

We have written the applicability requirements to clarify our intent as to what is a site remediation activity and how the final rule applies to these activities. You are subject to the final rule if you own or operate a facility that is a major source of HAP emissions and where a site remediation is conducted that meets the definitions and conditions specified in the final rule. Certain types of site remediations are explicitly exempted from being subject to the final rule.

### *Applicability Definitions and Conditions*

In the final rule, we have added a new definition for the term "site remediation" and written our proposed definition of "remediation material" to clarify the final rule's applicability and to improve implementation of the final rule's requirements. Site remediation means one or more activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material, as defined in the final rule. Monitoring or measuring of contamination levels in media, whether by using wells, sampling, or other means, is not considered to be a site remediation.

We have written the definition of remediation material to clarify the term's meaning consistent with our

intent that the final rule address HAP emissions from site remediations to clean up environmental media contaminated with HAP (e.g., soils, groundwaters, surface waters), as well as clean up certain stored or disposed materials that contain HAP and pose a reasonable potential threat to contaminate environmental media. The final Site Remediation NESHAP is applicable to those site remediations that involve the cleanup of materials with the potential to emit the HAP we have listed in the final rule. Also, the revised definition of remediation material used in the final rule explicitly identifies two groups of materials considered to be remediation materials for the purpose of implementing the final rule.

Remediation material as defined for the final Site Remediation NESHAP must contain one or more of the HAP listed in Table 1 of the final rule. Table 1 of the final rule presents a list of 97 specific organic HAP compounds, isomers, and mixtures, and is the same list that we proposed with one correction. The compound 1–1 dimethyl hydrazine was incorrectly included on list published with the proposed rule, and this compound has been deleted from the list in the final rule. If your site remediation does not involve the cleanup of remediation material containing any of the HAP listed in Table 1 of the final rule, then you are not subject to the final Site Remediation NESHAP.

The first group of materials included in the definition of remediation material addresses air emissions from site remediations to clean up environmental media contaminated with HAP. These materials are found in environmental media such as soil, groundwater, surface water, and sediments, or a mixture of such materials with liquids, sludges, or solids which is inseparable by simple mechanical removal processes and is made up primarily of media. Our use of the term “media” for the final rule does not include debris as defined in 40 CFR 268.2.

The second group of materials included in the definition of remediation material addresses air emissions from site remediations to clean up materials containing HAP that are stored or disposed at a site and that pose a reasonable potential threat to contaminating environmental media. These are defined to be materials containing HAP that are found in intact or substantially intact containers, tanks, storage piles, or other storage units. Examples of these materials include solvents, oils, paints, and other volatile or semi-volatile organic liquids found in

buried drums, cans, or other containers; gasoline, fuel oil, or other fuels in leaking underground storage tanks; and solid materials containing volatile or semi-volatile organics in unused or abandoned piles. We do not consider remediation material, for example, to include waste or residue generated by routine equipment maintenance activities performed at a facility such as tank bottoms and sludges removed during tank cleanouts; sludges and sediments removed from active wastewater treatment tanks, surface impoundments, or lagoons; spent catalyst removed from process equipment; residues removed from air pollution control equipment; and debris removed during heat exchanger and pipeline cleanouts. The removal and subsequent management of these types of waste and residue materials are not remediation activities, but instead, are good operating and maintenance practices that facility owners and operators perform to help sustain process and air pollution control equipment performance at the equipment’s design specifications and to extend the equipment’s service life.

Hereafter in this preamble, the term remediation material is used as defined in the final Site Remediation NESHAP. Not all site remediations to clean up remediation material are subject to the final Site Remediation NESHAP. Certain site remediations are explicitly exempted from being subject to the final rule. Of the site remediations not specifically exempted, only site remediations to clean up remediation material that meet both of the additional applicability conditions specified in the rule are subject to the final rule.

We have written the final rule to clarify the applicability conditions used to determine if your site remediation is subject to the final rule. These conditions have not changed from the proposed rule other than we have reworded the regulatory language to better describe the types of site remediations we intend the final rule to affect. If your site remediation is not included on the list of exempted site remediations in § 63.7881(b) of the final rule or you can qualify for the facility-wide small HAP content exemption in § 63.7881(c), then you make a determination of whether both of the applicability conditions specified in the final rule apply to your cleanup. If either of the applicability conditions do not apply to your cleanup, then your site remediation is not subject to the final Site Remediation NESHAP.

The first applicability condition is that a site remediation to clean up remediation material must be co-located

with one or more stationary sources of HAP emissions within a contiguous area and under common control that meets an affected source definition specified for a source category that is regulated by another NESHAP in 40 CFR part 63. The re-wording of this condition in the final rule eliminated the need for the term “MACT activity” that was included in the proposed rule. That term no longer appears. This condition applies regardless of whether or not the non-remediation affected stationary sources at your site are subject to, or exempted from, the control standards under the applicable subpart. For example, if a site remediation is performed at a petroleum refinery subject to 40 CFR part 63, subpart CC—National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries, then a site remediation to clean up remediation materials conducted at the facility meets this applicability condition. If there are no stationary sources that meet this applicability condition at the facility where a site remediation is conducted, then you are not subject to the final rule.

We provided this condition to simplify the applicability determination process whereby an owner or operator of a site remediation with low HAP potential can easily determine that they are not subject to the Site Remediation NESHAP without having to estimate potential HAP emissions. This is a reasonable approach since we believe that remediation activities that are not collocated with a stationary source, or sources, meeting the affected source definition of another NESHAP would not be major sources by themselves. The one possible exception could be some CERCLA sites, which might themselves be major sources without regard for collocation with a major source, but these sites are exempt from the final rule.

The other applicability condition is that the facility at which you conduct a site remediation to clean up remediation material must be a major source, as defined in § 63.2 of the General Provisions to 40 CFR part 63. Your facility is a major source if it emits or has the potential to emit HAP above the threshold levels of 10 tpy for any single HAP and 25 tpy for any combination of HAP. All potential emissions of HAP from the entire facility (i.e., both the remediation activity and all other facility activity) must be considered in making this calculation. It is also important to note that the determination of the major source status of a given facility is determined based on all HAP listed pursuant to CAA section 112(b) (i.e., not just the HAP listed in Table 1 of the final Site Remediation NESHAP).

A source that is not a major source is an area source. If your HAP emission determination shows that when you conduct the site remediation your site will remain an area source (*i.e.*, the total potential HAP emissions from the existing sources at your site plus the estimated HAP emissions from the site remediation activities to be performed for the cleanup are less than the major source threshold levels), then your site remediation is not subject to the final Site Remediation NESHAP. If your site is currently an area source, but will become a major source when you conduct the site remediation, then your site remediation is subject to the final Site Remediation NESHAP. However, for this situation because of the uniqueness of this source category and the nature of the activities regulated by the final rule, there is a special exception to the "once in, always in" NESHAP policy as related to your facility's NESHAP compliance obligations.

#### Site Remediation Applicability Exemptions

The final rule does not apply to certain site remediations that are explicitly exempted, regardless of the organic HAP content of the remediation materials or the status of other stationary sources at the locations where these site remediations are conducted. In general, these exemptions apply to site remediation activities regulated under other Federal rules and requirements or which have special circumstances that make application of requirements under the final rule unnecessary or problematic. The exempted site remediations are listed in § 63.7881(b) of the final rule. The final Site Remediation NESHAP does not apply to CERCLA Superfund and RCRA corrective actions to clean up hazardous substances, hazardous wastes, and hazardous constituents. In short, we view the Superfund program under CERCLA and the hazardous waste corrective action program under RCRA as the functional equivalents of the establishment of MACT standards under CAA section 112. These programs, as part of the ROD process for Superfund cleanups and the RCRA permitting process for corrective action cleanups, require consideration of the same HAP emissions that we do in establishing MACT standards, and provide opportunity for public involvement in these site-specific remediation determinations. The RCRA and CERCLA statutes apply more specifically to the remediation process than does MACT under the CAA and, unlike the CAA, authorize site specific means of dealing

with remediation activities and their associated HAP emissions. Consequently, we are exempting these activities from the MACT standards promulgated in the final rule.

In response to comments on the proposed exemptions for site remediations to clean up contamination from units managing radioactive mixed waste, we collected additional information and reviewed the basis for the proposed exemption. Because the technical issues related to safety concerns for containers and other storage units managing radioactive mixed wastes do not apply to site remediation treatment unit process vents and equipment leaks, the final Site Remediation NESHAP limits the exemption for radioactive mixed waste to only remediation material management units (a term explained fully below). Remediation activities (that meet the final rule applicability criteria) to clean up radioactive mixed waste are subject to standards for treatment unit process vents and equipment leaks under the final Site Remediation NESHAP. Also, we have written the final rule language to clarify the applicability of this exemption to site remediations involved with the cleanup of radioactive mixed wastes. To be consistent with the definitions used in RCRA, mixed waste is defined in the final rule as waste that contains both hazardous waste subject to RCRA and either source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954. Also, an additional reference to the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579) is added to the final rule exemption language to include the management of mixed transuranic waste within the scope of the exemption.

Finally, the final rule maintains the other exemptions we proposed. The final rule does not apply to a site remediation to clean up leaking underground storage tanks located at a gasoline service station. The final rule does not apply to any site remediation conducted at a farm or residential site. Also, the final rule does not apply to a site remediation conducted at a research and development facility that meets the requirements of CAA section 112(c)(7).

The final rule retains the proposed exemption for site remediations of short duration. However, this exemption has been modified from the proposed exemption to address public comments we received and to resolve potential issues regarding the practical implementation and enforcement of the exemption.

Under the short-term site remediation exemption, a site remediation at a facility subject to the final rule is not subject to the emissions limitations and work practice standards in the final Site Remediation NESHAP if the site remediation can be completed within 30 consecutive calendar days as determined from the day on which you actually begin work at the site to physically clean up the remediation materials. Certain administrative and site preparation activities you need to perform before you can physically begin the cleanup are not counted as part of this 30-day exemption period. These pre-activities consist of the following: activities you perform to characterize the type and extent of the contamination by collecting and analyzing samples, obtaining any permits required by State or local authorities to conduct the site remediation, scheduling workers and necessary equipment, and arranging for any contractor assistance in performing the site remediation. To qualify for the short-term site remediation exemption, you must prepare and maintain at your facility written documentation describing the exempted site remediation and listing the initiation and completion dates for the site remediation.

#### B. What Are the Affected Sources?

The final rule designates three types of affected sources subject to requirements under the final rule: process vents on in-situ and ex-situ remediation treatment processes; units used to manage remediation materials (called remediation material management units" in the final rule); and equipment leaks from pumps, valves, and other ancillary equipment associated with the remediation activities. The affected source designations in the final rule are the same as proposed.

The affected source for process vents is the entire group of process vents associated with the in-situ and ex-situ remediation processes used at your site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material. Examples of process vents for in-situ remediation processes include the discharge vents to the atmosphere used for soil vapor extraction and underground bioremediation processes. Examples of process vents for ex-situ remediation processes include vents for thermal desorption, bioremediation, and stripping processes (air or steam stripping).

The term remediation material management unit is used in the final rule to refer collectively to any tank,

container, surface impoundment, oil-water separator, organic-water separator, or transfer system used to store, transfer, treat, or otherwise manage remediation material at the site. The affected source for remediation material management units is the entire group of tanks, surface impoundments, containers, oil-water separators, and transfer systems used for the site remediation activities involving clean up of remediation material.

The affected source for equipment leaks is the entire group of remediation equipment components (pumps, valves, etc.) that contain or contact remediation material having a total concentration of HAP listed in Table 1 of the final rule equal to or greater than 10 percent by weight, and are intended to operate for 300 hours or more during a calendar year.

### C. What Are My Compliance Options?

Each site remediation subject to the final Site Remediation NESHAP must meet the applicable standards specified in the final rule for the types of the affected sources associated with the site remediation unless the site remediation qualifies for an exemption provided in the final rule. Separate sets of standards are established for each of the affected source groups. These standards and exemptions were included in the proposed rule. A new section has been added to the final rule titled "General Standards" to better delineate and clarify the overall compliance options and exemptions allowed under the final rule for each affected source group.

#### Process Vents

The general standards for affected process vents describe three compliance options. The first compliance option is to control HAP emissions from the affected process vents to meet the facility-wide emissions limitations and associated work practice standards established in the final rule.

The second compliance option is to determine that the average total volatile organic HAP (VOHAP) concentration in the remediation material treated or managed by the process that is vented through the affected process vents is less than 10 parts per million by weight (ppmw). The determination of the VOHAP concentration is based on the concentration of organic HAP listed in Table 1 of the final rule using sampling and analysis procedures specified in the final rule. Affected process vents that meet this option are not subject to air pollution control requirements under the final rule.

The third compliance option is for process vents that are already using air

pollution controls to comply with another subpart under 40 CFR part 61 or 40 CFR part 63. Under this option, you treat your remediation material in a process for which the HAP emissions from the affected process vent are controlled in compliance with the standards specified in the applicable subpart. This means you are complying with all applicable emissions limitations and work practice standards under the other subpart (e.g., you install and operate the required air pollution control devices or have implemented the required work practice to reduce HAP emissions to levels specified by the applicable subpart). This provision only applies if the other subpart actually specifies a standard requiring control of HAP emissions from your affected process vents. It does not apply to any exemption of the affected source from using air pollution controls allowed by the other applicable subpart.

#### Remediation Material Management Units

The general standards for remediation material management units provide two compliance options that apply to all affected units. Two other compliance options are available to some affected remediation material management units that meet special conditions specified in the final rule.

The first compliance option available to all affected remediation material management units is to control HAP emissions from the affected remediation material management unit according to the emissions limitations and work practice standards specified in the final rule. Separate emissions limitations and work practice standards are established under the final rule for each type of remediation material management unit (i.e., separate standards for tanks, separate standards for containers, etc.).

The second compliance option available to all affected remediation material management unit is to determine the average total VOHAP concentration of the organic HAP listed in Table 1 of the final rule that is contained in the remediation material. If the VOHAP concentration of the material is less than 500 ppmw, then the remediation material management units handling this material are not subject to the applicable emissions limitations and work practice standards established under the final rule. The VOHAP concentration determination is based on the organic HAP content of the remediation material at the "point-of-extraction" as measured or estimated using the procedures specified in the final rule. Point-of-extraction is a defined term in the final rule that means

a point above ground where you can collect samples of a remediation material before or at the first point where organic constituents in the material have the potential to volatilize and be released to the atmosphere, and (in all instances) before placing the material in a remediation material management unit.

The final rule provides two other compliance options that apply to certain affected remediation material management units that operate under the special circumstances specified in the final rule. The first of these compliance options is available for any affected remediation material management unit also subject to another subpart under 40 CFR part 61 or 63. Under this option, you must control HAP emissions from the affected remediation material management unit in compliance with the standards specified in the applicable subpart. Implementation of this provision is the same as discussed above for process vents. The provision only applies to your affected remediation material management unit if the other subpart actually specifies a standard requiring control of organic HAP emissions from the same type of unit as your remediation material management unit (i.e., if your affected remediation material management unit is a tank, then the other subpart must specify organic HAP emission control requirements for tanks). It does not apply to any exemption of the affected source from using air pollution controls allowed by the other applicable subpart (e.g., if the other subpart exempts tanks with capacities less 10,000 gallons from the control requirements, that exemption does not apply to the affected tanks you use for your site remediation activities).

A final compliance option is available for a remediation material management unit that is an open tank or surface impoundment and is used for a biological treatment process. Under this compliance option, you must demonstrate that the treatment process meets one of HAP biodegradation or removal levels specified in the final rule.

The final rule includes a special site-specific exemption for remediation material management units that manage materials with small quantities of the organic HAP listed in Table 1 of the final rule. Due to the nature of the media contamination or other site-specific circumstances, the cleanup at a site may require use of specialized or custom equipment that meets the definition of a remediation material management unit under the final rule

but this equipment's design or configuration makes it technically problematic or very expensive to install and operate the air pollution controls required under the final rule for the particular type of remediation material management unit. Therefore, the final rule provides for a site-specific exemption from the applicable emissions limitations and work practice standards under the final rule to allow use of these remediation material management units in situations where the potential for HAP emissions is relatively low. A remediation material management unit can be exempted from the applicable emissions limitations and work practice standards under the final rule provided that the owner or operator determines that the total annual quantity of the organic HAP listed in Table 1 of the final rule that is contained in the remediation material placed in the unit remains at a level less than 1 Mg/yr.

#### Equipment Leaks

Under the final rule, you must control HAP emissions from equipment leaks from each equipment component that contains or contacts remediation material having a total concentration of the organic HAP listed in Table 1 of the final rule equal to or greater than 10 percent by weight, and are intended to operate for 300 hours or more during a calendar year. Control of these emissions is achieved by implementing a leak detection program and installing equipment.

#### *D. What Are the Emissions Limitations and Work Practice Standards?*

The emissions limitations and work practice standards established by the final Site Remediation NESHAP remain essentially the same as proposed. The standards are the same for existing, reconstructed, and new sources.

#### Process Vents

The process vent standards are the same regardless of whether the process is in-situ or ex-situ treatment process. These standards apply to the entire group of affected process vents associated with all of the treatment processes used for your site remediation.

The first option is to reduce emissions of total organic HAP emissions listed in Table 1 of the final rule from all affected process vents at the facility to a level less than 1.4 kilograms per hour (kg/hr) and 2.8 Mg/yr, which is approximately 3.0 pounds per hour (lb/hr) and 3.1 tpy, respectively. You must achieve both the hourly and annual mass emissions limits to comply with this option under

the final rule. If the total organic HAP emissions from all affected process vents associated with your site remediation exceed either the hourly or annual mass emissions limitations, then you must use appropriate controls to reduce the emission levels to comply with the emissions limits. If you can meet both the hourly and annual mass emissions limits using no controls, or with federally-enforceable controls, then no additional controls are required under the final rule for your affected process vents.

If you choose, you may demonstrate compliance with the hourly and annual emission limits based on total organic compounds (TOC) minus methane and ethane in place of total organic HAP. Because your compliance determinations based on TOC will be simpler and less expensive than if you use total organic HAP, it may be advantageous for your particular site-specific conditions to choose to comply with the emission limits based on TOC.

As an alternative, you may comply with an emission limit that requires that you reduce the total organic HAP emissions listed in Table 1 of the final rule from all of the affected process vents by at least 95 weight percent. Again, you may demonstrate compliance with this emission limit using TOC emissions (minus methane and ethane) in place of using total organic HAP emissions. At sites with multiple affected process vent streams, you may comply with this option by a combination of controlled and uncontrolled process vent streams that achieve the 95 percent reduction standard on an overall mass-weighted average. You may exclude certain low flow and low HAP concentration process vent streams explicitly specified in the final rule from the percent reduction calculation. Under this option, you must meet the operating limit and work practice standards specified in the final rule for each control device and closed vent system used to control your process vent streams.

#### Remediation Material Management Units

The air pollution control requirements for remediation material management units in the final Site Remediation NESHAP are based on using the applicable national emission standards established in other subparts of 40 CFR part 63 for specific types of equipment whenever available and appropriate to do so for this source category. For applications where appropriate NESHAP are not included in the final Site Remediation NESHAP,

we have relied on establishing air emission control requirements that are consistent with the requirements under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations. Subpart DD applies to facilities that are major sources of HAP; receive wastes, used oils, or used solvents generated at off-site locations; and manage and treat these materials in units and processes collectively referred to as off-site waste and recovery operations (OSWRO). The final rule has been written to directly cross-reference the appropriate subparts of 40 CFR part 63.

*Tanks.* Under the final rule for those tanks managing remediation materials with a maximum HAP vapor pressure of the remediation material less than 76.6 kPa and required to meet the air emission control requirements, you must achieve the applicable level of control (Tank Level 1 or Tank Level 2) determined by the tank design capacity and the maximum HAP vapor pressure of the remediation material placed in the tank. For each tank required to use Tank Level 1 controls, you must use a fixed roof according to the requirements in 40 CFR part 63, subpart OO—National Emission Standards for Tanks—Level 1. For each tank required to use Tank Level 1 controls, you may also comply with the final rule by using Tank Level 2 controls if you choose to do so. For each tank required to use Tank Level 2 controls, you must comply with one of five compliance options: use a fixed roof with an internal floating roof, use an external floating roof, use a fixed roof vented to a control device, use a pressurized tank that operates as a closed system during normal operations, or locate an open tank inside a permanent total enclosure that is vented to a control device.

The final rule requirements for the Tank Level 2 internal and external floating roof control option requirements have been revised since proposal by replacing the cross-reference to the floating roof requirements in the 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations with a cross-reference to the floating roof control requirements in 40 CFR part 63, subpart WW—National Emission Standards for Storage Vessels (Tanks)—Control Level 2. The requirements for floating roofs in both rules are essentially the same. This change was made to be consistent with our format changes to the final Site Remediation NESHAP to directly cross-reference the applicable control



requirement where applicable to and appropriate for the type of remediation material management units (in this case tanks) regulated by the final rule.

We stated at proposal that the basis for the selection of tank control requirements in the final Site Remediation NESHAP is the tank control requirements in the 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (67 FR 49415). We inadvertently omitted from the version of proposed Site Remediation NESHAP published in the **Federal Register** the tank control requirements for tanks managing remediation materials with a maximum HAP vapor pressure of 76.6 kPa or greater included under 40 CFR part 63, subpart DD. For the final rule, we have corrected this omission and have added to the air pollution control requirements for tanks managing these remediation materials. The controls required under the final Site Remediation NESHAP are the same requirements in 40 CFR part 63, subpart DD. Tanks managing remediation materials with a maximum HAP vapor pressure of 76.6 kPa or greater use one of the Tank Level 2 control options other than a floating roof.

**Containers.** The final rule establishes emissions limitations and work practice standards to control organic HAP emissions from containers having a design capacity greater than 0.1 cubic meters (approximately 26 gallons). For those containers required to use air pollution controls, you must achieve the applicable level of control determined by the container design capacity, the organic content of the remediation material in the container, and whether the container is used for a waste stabilization process. You must comply with the specified requirements for the applicable control level in 40 CFR part 63, subpart PP—National Emission Standards for Containers.

**Surface impoundments.** For each surface impoundment required to use air pollution controls, you must use a floating membrane cover or a cover vented to a control device according to the requirements in 40 CFR part 63, subpart QQ—National Emission Standards for Surface Impoundments.

**Separators.** For each oil-water or organic-water separator required to use air pollution controls, you must use a fixed roof, use a floating roof, vent emissions to a control device, or use a pressurized separator according to the requirements in 40 CFR part 63, subpart VV—National Emission Standards for Oil-Water and Organic-Water Separators.

**Transfer systems.** For each individual drain system required to use air pollution controls, you must comply with the requirements in 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems. For an affected transfer system other than individual drain systems, you are required to comply with one of three options: use covers, use continuous hard-piping, or use an enclosure vented to a control device.

**Closed Vent Systems and Control Devices.** In final Site Remediation NESHAP we have added a separate series of sections (§§ 63.7925 through 63.7928) that specify in one part of the final rule all of the emissions limitations and work practice standards that apply to each closed-vent system and control device you use to meet the requirements in another section of the final rule. The same requirements for closed-vent systems and control devices that we proposed are now presented in these sections. Each control device you use to meet requirements under the final Site Remediation NESHAP (with the exception of the facility-wide process vent emission limits) must reduce emissions of total organic HAP listed in Table 1 of the final rule or the emissions of TOC (minus methane and ethane) by 95 percent by weight. If a combustion control device is used (thermal incinerator, catalytic incinerator, boiler, or process heater), a second compliance option available to you is for the control device to reduce the concentration of total HAP listed in Table 1 of the final rule or TOC (minus methane and ethane) to 20 parts per million by volume (ppmv) or less on a dry basis corrected to 3 percent oxygen. All control devices you use to meet requirements under the final rule (including any control devices you use to meet the facility-wide process vent emission limits) must meet operating limits for each type of control device and work practice standards for closed vent systems and certain types of control devices.

In addition, we have added to the final rule several more control device compliance options that are under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations for emissions vented to a boiler, process heater, or fuel system but was not included in the proposed Site Remediation NESHAP. Under these compliance options, as an alternative to complying with the 95 percent reduction requirement for control devices, you may comply with any of the following work practice standards: introduce the vent stream

into the flame zone of the boiler or process heater and maintain the conditions in the combustion chamber at a residence time of 0.5 seconds or longer and at a temperature of 760°C or higher, or introduce the vent stream with the fuel that provides the predominant heat input to the boiler or process heater (*i.e.*, the primary fuel), or introduce the vent stream to a boiler or process heater for which you either have been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

#### Equipment Leaks

The final rule establishes work practice standards to control organic HAP emissions from leaks in pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, and product accumulator vessels that either contain or contact a regulated material that is a fluid (liquid or gas) and has a total concentration of the organic HAP listed in Table 1 of the final rule equal to or greater than 10 percent by weight. These work practice and equipment standards do not apply to equipment that operates less than 300 hours per calendar year. You have the option of complying with the provisions of either 40 CFR part 63, subpart TT—National Emission Standards for Equipment Leaks—Control Level 1 or 40 CFR part 63, subpart UU—National Emission Standards for Equipment Leaks—Control Level 2. Both of these subparts require you to implement a leak detection and repair program (LDAR) and to make certain equipment modifications.

#### *E. What Are the Requirements for Remediation Material That Is Shipped Off-Site?*

Under the final rule, where remediation material that will be required to be managed in either remediation material management units or treatment processes equipped with process vents is shipped to an off-site facility, you may need to meet certain requirements before transferring the material and maintaining records for the transferred materials. We have written the final regulatory language for the requirements for transfer of remediation wastes to reflect our original objective in establishing the requirements. Also, we have simplified the reporting and recordkeeping requirements in the final

rule related to some off-site transfers of remediation materials. Finally, we have included in the final rule an explicit provision stating that the acceptance by a facility owner or operator of remediation material from a site remediation subject to the final Site Remediation NESHAP does not, by itself, require the facility owner or operator to obtain a title V permit.

#### *F. What Are the General Compliance Requirements?*

Under the final rule, you must meet each applicable emission limitation and work practice standard in the final rule at all times, except during periods of startup, shutdown, and malfunction. You must develop and implement a written startup, shutdown, and malfunction plan for your site remediation according to the provisions of 40 CFR 63.6(e)(3). You also must develop and implement a site-specific monitoring plan for each continuous monitoring system required by the final rule. The plan must address installation location, performance and equipment specifications, and procedures for performance evaluations, operation and maintenance, data quality assurance, and recordkeeping and reporting. We have deleted the proposed operation and maintenance requirements for continuous parameter monitoring systems from the final rule. We are planning to develop and promulgate a single set of operation and maintenance requirements for continuous parameter monitoring systems applicable to all NESHAP under 40 CFR part 63.

#### *G. What Are the Initial Compliance Requirements?*

Initial compliance with the emissions limitations and work practice standards for process vents is achieved by demonstrating compliance with the selected set of emission limits (*i.e.*, mass emission limit or percent reduction). If a control device is used to achieve compliance with the emission limits, you also must establish your operating limits for the control device based on the values measured during the performance test or determined by the design evaluation.

Initial compliance with the emissions limitations and work practice standards for remediation material management units is achieved by demonstrating that the unit meets all applicable air emission control requirements for the unit. If a control device is used, initial compliance is determined by either: performing a performance test according to 40 CFR 63.7 and using specific EPA reference test methods, or performing a design evaluation according to

procedures specified in the final rule. You also must establish your operating limits for the control device based on the values measured during the performance test or determined by the design evaluation.

#### *H. What Are the Continuous Compliance Provisions?*

To demonstrate continuous compliance with the applicable emissions limitations and work practice standards under the final rule, you must perform periodic inspections and continuous monitoring of certain types of air pollution control equipment you use to comply with the final rule. In those situations when a deviation from the operating limits specified for a control device is indicated by the monitoring system or when a damaged or defective component is detected during an inspection, you must implement the appropriate corrective measures.

To demonstrate continuous compliance with an emission limitation for a given affected source, you must continuously monitor air emissions or operating parameters appropriate to the type of control device you are using to comply with the standard, and keep a record of the monitoring data. Compliance is demonstrated by maintaining each of the applicable parameter values within the operating limits established during the initial compliance demonstration for the control device.

There are different requirements for demonstrating continuous compliance with the work practice standards, depending on which standards are applicable to a given affected source. To ensure that the control equipment used to meet an applicable work practice standard is properly operated and maintained, the final rule requires that you periodically inspect and monitor this equipment.

#### *I. What Are the Notification, Recordkeeping, and Reporting Requirements?*

The final rule requires that you keep records and file reports consistent with the notification, recordkeeping, and reporting requirements in 40 CFR part 63, subpart A. Two basic types of reports are required: initial notification and semiannual compliance reports. The initial notification report advises the regulatory authority of applicability for existing sources or of construction for new sources.

The initial compliance report demonstrates that compliance has been achieved. This report contains the results of the initial performance test or

design evaluation, which includes the determination of the reference operating parameter values or range and a list of the processes and equipment subject to the standards. Subsequent compliance reports describe any deviations of monitored parameters from reference values; failures to comply with the startup, shutdown, and malfunction plan (SSMP) for control devices; and results of LDAR monitoring and control equipment inspections.

Records required under the proposed standards must be kept for 5 years, with at least the 2 most recent years being kept on the facility premises. These records include copies of all reports that you have submitted to the responsible authority, control equipment inspection records, and monitoring data from control devices demonstrating that operating limits are being maintained. Records from the LDAR program and storage vessel inspections, and records of startups, shutdowns, and malfunctions of each control device are needed to ensure that the controls in place are continuing to be effective.

#### *J. What Are the Compliance Deadlines?*

Each affected source associated with a site remediation is an existing source if you commenced construction or reconstruction of the source before July 30, 2002. Each affected source associated with a site remediation is a new source if you commenced construction or reconstruction of the affected source on or after July 30, 2002. An affected source is reconstructed if it meets the definition of "reconstruction" in 40 CFR 63.2.

Existing sources associated with a site remediation subject to the final Site Remediation NESHAP must comply with the final rule requirements by October 9, 2006. New sources, with the exception of those new sources managing remediation material that is a radioactive mixed waste, must be in compliance with the final rule requirements on the final rule's effective date or, if it is not yet operational, upon initial startup of the source.

Under the final Site Remediation NESHAP, remediation activities (which meet the final rule applicability criteria) that clean up radioactive mixed waste are subject to standards for treatment unit process vents and equipment leaks. If you have a new affected source that manages remediation material that is a radioactive mixed waste, and its initial startup date is on or before October 8, 2003, you must be in compliance with the final rule requirements no later than October 9, 2006. If the affected source's initial startup date is after October 8, 2003, you must be in compliance with

the final rule requirements upon initial startup.

*K. How Does the "once in, always in" Policy Apply?*

We explained at proposal why site remediation is a unique source category (see 67 FR 49400–49401). Because of its uniqueness, we specifically evaluated how the final Site Remediation NESHAP could be implemented within the framework of our existing policies for implementing the MACT standards promulgated under CAA section 112. Our "once in, always in" policy is that once a facility or source is subject to a MACT standard, it remains subject to that standard as long as the affected source definition or criteria are met. In the preamble to the proposed rule, we discussed our decision that the once in, always in policy should not apply to the site remediation source category for those facilities that are area sources prior to and after, but not during, the cleanup activity. We received many public comments supporting this decision. We are reiterating here how we will apply the once in, always in policy to facilities that conduct site remediations in situations where a facility is an area source prior to the remediation activity, but where addition of the potential HAP emissions from the remediation activities increases the facility's potential to emit (PTE) to levels such that the facility exceeds the 10 or 25 ton HAP thresholds for a major source.

Because the facility is then a major source of HAP, another operation at the facility, such as a manufacturing process, would be subject to NESHAP for other source categories located at their facility. Furthermore, after the remediation is completed, the facility would, in terms of potential emissions, essentially be back to where it was as an area source (assuming no change in the facility plant operations). Under the once in, always in policy, the facility would remain subject to the NESHAP that was triggered by the limited duration change of source status from area to major brought about by the increase in PTE from the site remediation activity.

In the situation described above, the once in, always in policy would create an obvious disincentive for owners or operators to engage in site remediations, particularly since voluntary remediation would be affected by the final rule. Our intent is to not adopt requirements that create incentives to avoid a cleanup or result in the selection of less desirable or less protective remediation approaches. Therefore, we have determined that the once in, always in

policy does not apply where a facility's status changes from area source to major source, solely as a result of remediation activities regulated by the Site Remediation NESHAP, where the facility returns to area source status after the cleanup activity.

**III. Responses to Major Comments on Proposed Rule**

Our responses to all of the substantive public comments on the proposal are presented in the BID which is available in Docket No. OAR–2002–0021.

*A. Why Are We Promulgating NESHAP To Regulate HAP Emissions From Site Remediation Activities?*

*Comment:* Several commenters disagreed with our decision to establish a NESHAP regulating HAP emissions from site remediation activities. The commenters argued that such a NESHAP is not needed for several reasons: the level of HAP emissions from the sources that would be subject to the final rule is too low to warrant regulation by a NESHAP, adequate air emissions controls already are imposed at sites subject to risk assessment, and a NESHAP discourages site owners and operators from initiating and conducting voluntary cleanups.

*Response:* Section 112 of the CAA requires that we establish MACT standards for the control of HAP from both new and existing major sources of HAP. Section 112(a)(1) defines a "major source" as "\* \* \* any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. \* \* \*" We have codified essentially this same definition into § 63.2 of the General Provisions to part 63. We have long interpreted this definition as requiring that all sources of HAP within a plant site must be aggregated, so long as the sources are geographically adjacent and under common control (see *e.g.*, 59 FR 12412, March 16, 1994). This interpretation was sustained by the court in *National Mining Ass'n v. EPA*, 59 F. 3d 1351, 1355–1359 (D.C. Cir. 1995). A consequence, then, is that sources of HAP which are part of a major source, but which would not themselves (viewed separately) be major sources, are still classified as major sources and are subject to the requirements of CAA section 112(c) and (d), which command us to list all categories of major sources and establish technology-based

standards for those sources. The result, for purposes of site remediation activities, is that all such remediations conducted at locations which, taken as a whole are major sources, are themselves required to be controlled by MACT standards in the final rule.

We determined that there are major sources of HAP where site remediations are now being conducted or may be conducted in the future to clean up contaminated environmental media or certain stored or disposed materials that pose a reasonable potential threat to contaminate environmental media. The levels of HAP emissions from remediation activities at a given cleanup site depend on a combination of site-specific factors including the type of remediation processes used and activities conducted; the quantity, HAP composition, and other characteristics of the remediation material; and the time required to complete the cleanup. We recognize that at some cleanup sites the levels of HAP emissions from the remediation activities will be low. However, at other cleanup sites the potential level of HAP emissions from the remediation activities can be substantial and appropriate air pollution controls are needed to protect public health and the environment.

We already have established requirements under our RCRA hazardous waste corrective action and CERCLA Superfund programs which address the air emissions from certain remediation activities based largely on site-specific risk assessments. However, these requirements do not apply universally to all site remediations with the potential to emit HAP. There are site remediations not subject to these federally-enforceable requirements. To meet our congressional directive under CAA section 112, we are promulgating the final Site Remediation NESHAP applicable to those site remediations not subject to federally-enforceable requirements that will effectively control HAP emissions.

Finally, the fundamental objective of a site remediation is to mitigate a detected risk to public health or the environment by successfully completing the cleanup of media or other materials at the site that is contaminated by a hazardous substance. It is commendable when a site owner or operator voluntarily initiates and conducts a cleanup. However, the fact that a cleanup is being conducted voluntarily as opposed to being conducted to comply with a Federal or State regulatory requirement or fulfill a court directive does not obviate or excuse the use of appropriate air pollution controls to those site remediation activities with

the potential to emit substantial quantities of HAP.

*B. How Did We Select the HAP To Be Regulated by the Final Rule?*

*Comment:* Several commenters requested that we reconsider our selection of which HAP are regulated under the final rule to include metals and inorganic compounds listed as HAP. In particular, the commenters stated that beryllium and other heavy metals should be included because these HAP cause harm to public health and welfare. Other commenters supported our decision not to regulate remediation activities that emit metal HAP or other inorganic HAP. One commenter stated that the final rule should be based on a HAP list developed specifically for site remediation instead of using the list under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

*Response:* A site remediation potentially could be required at any of a wide variety of industrial facilities, manufacturing plants, waste treatment and disposal facilities, and other types of sites. Consequently, the contaminating substances at a site requiring cleanup could be any of the organic, metal, or inorganic chemicals or groups of chemicals that are listed as HAP pursuant to CAA section 112(b). However, some of these contamination substances that are also listed as HAP have no or minimal potential to be emitted to the atmosphere from the site remediation activities performed at the site to clean up the contamination (notwithstanding that metal and other inorganic HAP may be present in the material being remediated).

In developing the proposed Site Remediation NESHAP, we considered all of the HAP listed pursuant to CAA section 112(b) for regulation by the proposed rule (see 67 FR 49413). Based on the information available to us at proposal regarding the cleanup of media contaminated with metals or other inorganic HAP, many of the remediation techniques used for these cleanups do not release the metals or inorganic HAP to the atmosphere. In cases where remediation material containing a metal or inorganic HAP is burned in an incinerator or other combustion unit, the combustion unit must already meet air standards under the CAA and RCRA that limit organic, particulate matter, metals, and chloride emissions. Therefore, we concluded that metals and other inorganic compounds listed as HAP pursuant to CAA section 112(b) do not need to be regulated by the final

Site Remediation NESHAP. We specifically requested comment at proposal on our conclusion. We received some additional information from commenters supporting our decision not to include any metal or inorganic HAP on our list of regulated HAP for the final Site Remediation NESHAP. We received no information from commenters to support a determination that metal or inorganic HAP are being emitted from site remediation activities. Therefore, we continue to believe that metal and other inorganic compounds HAP do not need to be addressed by the final Site Remediation NESHAP.

In selecting the organic HAP to be regulated by the final Site Remediation NESHAP, we chose at proposal to be consistent with the approach we used for under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations as well as other NESHAP promulgated for source categories with large diversity in the organic chemical constituents present in the materials managed at any given facility. Under this approach, a specific list of pollutants is selected that reasonably ensures MACT control of the organic HAP emitted from the source. We used this approach to develop the HAP list for under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations by evaluating each chemical or chemical group listed as a HAP in CAA section 112(b) with respect to its potential to be emitted from a waste management or recovery operation (see 59 FR 1921).

Subpart DD under 40 CFR part 63 does not apply to OSWRO sources managing wastes received from site remediations. However, the data base that we used to select the list of HAP for subpart DD under 40 CFR part 63 included remediation wastes sent to hazardous waste TSDF. We concluded that this data base is also representative of the range of organic HAP chemicals having the potential to be emitted from the sites requiring cleanup of media contaminated with volatile or semi-volatile organics and other remediation material. Therefore, we proposed that same list of organic HAP used for the subpart DD under 40 CFR part 63 also be used for the final Site Remediation NESHAP. We requested comment at proposal regarding the use of this list of organic HAP for the final Site Remediation NESHAP. We received no new data from commenters, and have not ourselves found additional data since proposal to cause us to alter our

conclusion. These data are the best information available representative of the range of organic HAP chemicals having the potential to be emitted from site remediation activities, and that it is most appropriate to use also the HAP list from subpart DD under 40 CFR part 63 for the Site Remediation NESHAP.

When we developed the HAP list for subpart DD under 40 CFR part 63, we evaluated each organic chemical or chemical group listed as a HAP in CAA section 112(b) with respect to its potential to be emitted from a waste management or recovery operation (see 59 FR 51921). The criteria used to characterize and evaluate emission potential was based on a chemical constituent's Henry's law constant, evaluation of the aqueous and organic volatility characteristics of the chemical, and the ability of the analytical test methods to quantitate the chemical. Based on our evaluation, we developed the list of specific organic HAP compounds or compound groups to be regulated under the final rule (Table 1 in subpart DD under 40 CFR part 63). We later decided to delete eight chemicals from our initial list because we concluded that there is low potential for these compounds to be emitted from OSWRO (see 61 FR 34153). Dimethyl hydrazine was one of the eight compounds we removed from the list. Table 1 in the proposed Site Remediation NESHAP inadvertently included dimethyl hydrazine as one of the regulated HAP. We have corrected Table 1 in the final Site Remediation NESHAP to accurately reflect our intent by deleting dimethyl hydrazine from the list.

*C. How Do We Define Site Remediation in the Final Rule?*

*Comment:* Commenters expressed the concern that, as proposed, the final rule applicability provisions are unclear and circular. Several commenters requested that we clearly define the term "remediation" or the remediation activities subject to the final rule. Commenters also stated that routine waste management activities (e.g., tank clean-outs, removing spent catalyst from reactors, cleaning heat exchangers and other piping, etc.) are not site remediation activities and should be distinguished from site remediation activities subject to the final rule.

*Response:* We have written the regulatory language in the applicability section of the final rule to clarify our intent as to what is a site remediation for the purpose of implementing the Site Remediation NESHAP. The basis for all of our revisions to the proposed rule is consistency with our intent that the

final rule address HAP emissions from activities to clean up environmental media contaminated with HAP as well as clean up certain stored or disposed materials at a site that contain HAP and pose a reasonable potential threat to contaminating environmental media. It was never our intention that the final rule be interpreted to apply to activities at a facility required for management of waste generated by routine equipment maintenance activities or other types of activities necessary to continue day-to-day operations at a facility.

*D. Why Does the Final Rule Not Apply to CERCLA Superfund and RCRA Corrective Action Cleanups?*

*Comment:* We received comments supporting our proposal that site remediations conducted for CERCLA Superfund and RCRA corrective action cleanups not be subject to the final Site Remediation NESHAP. These commenters believe that these RCRA and CERCLA cleanup programs do have appropriate provisions which provide for the protection of public health and the environment from air pollutants emitted from site remediation activities on a site-specific basis. Other commenters opposed the exclusion of these site remediations from being subject to the final Site Remediation NESHAP because they assert that neither of the RCRA and CERCLA programs have air emission standards for site remediation activities and that the requirement of CAA section 112 is to establish NESHAP for HAP emissions from these activities. Among other things, such control could address any regulatory gaps in RCRA and CERCLA requirements.

*Response:* The RCRA hazardous waste corrective action and CERCLA Superfund programs do not establish national air standards for site remediations. These programs, however, do have provisions which provide for the protection of public health and the environment from air pollutants emitted from these activities on a site-specific basis. As we stated at proposal, the established Federal requirements provide an appropriate and effective regulatory approach to address air emissions from those remediation activities performed under CERCLA authority as a remedial action or a non-time critical removal action, or under RCRA authority at permitted or Federal Order RCRA corrective action sites.

The Superfund program is designed to protect public health and the environment while providing the flexibility to use effective and innovative remediation approaches that best suit the site-specific conditions at

each CERCLA site (CERCLA section 121). The Superfund program conducts extensive evaluation of the contamination at each CERCLA site (see 40 CFR 300.430). As part of the evaluation process, a decision document (*i.e.*, Record of Decision (ROD)) is developed for response actions, documenting the extent of contamination and the cleanup method(s) to be used at the site. Under this process, a site-specific analysis, considering the impacts to air, soil and groundwater, is conducted and an appropriate remedy is selected. During the ROD process, the general public is given the opportunity for input in the decision-making process through public hearings and submission of written comments. The public plays an important role in identifying and characterizing site-specific factors, such as the type of contaminants, the level and extent of contamination and other site-specific factors. We believe this procedure results in selection of the best plan for cleaning up each site and achieving the program's goals.

As implemented under the requirements of RCRA, hazardous waste treatment, storage and disposal facilities must obtain a permit specifying requirements for managing hazardous waste. As a condition of obtaining this permit, facilities are required to undertake corrective action addressing releases of hazardous waste and hazardous constituents from units at the facility which do not themselves require RCRA permits (solid waste management units) (RCRA section 3004(u)). For such designated contamination areas at TSDF, requirements for the cleanup of the contamination are included in the facility's RCRA permit, or Federal Order where applicable. Such cleanup activities are known as "corrective actions." Although RCRA is a separate program from Superfund, the RCRA permitting or Federal Order process for TSDF share several significant characteristics with Superfund cleanup activities at CERCLA sites. First, it is also the intent of the RCRA corrective action program to protect public health and the environment while allowing flexibility in choosing solutions to eliminate or reduce site contamination. Second, RCRA permitting and Federal Order procedures involve the public in the decision-making process through informal public meetings, public hearings or written comment. Finally, an extensive site-specific evaluation is performed at the RCRA facility to evaluate the extent of the contamination, while considering appropriate remedies through a multi-

media (*i.e.*, air, soil, groundwater) perspective (see 67 FR 49406 for additional explanation).

*E. Why Does the Final Rule Potentially Apply to State and Voluntary Cleanup Programs?*

*Comment:* Many commenters requested that in addition to CERCLA Superfund and RCRA corrective action cleanups, that other cleanups conducted under Federal or State oversight not be subject to the final rule, where such cleanups are conducted following CERCLA or RCRA requirements. The commenters argued that these cleanups conducted under State Superfund, Brownfield, voluntary cleanup, or other similar programs are subject to emissions controls and requirements that are substantially similar to those in the CERCLA or RCRA programs.

*Response:* The final Site Remediation NESHAP applies only to site remediations that meet the three applicability conditions specified in the final rule. We have determined that site remediations at those sites that meet these applicability conditions warrant the implementation of air pollution controls to reduce the emission of organic HAP to the atmosphere. As discussed in our previous response, we are exempting from the final rule requirements those sites that meet the final rule applicability conditions where the site remediations are conducted for CERCLA (Superfund) or RCRA corrective action cleanups. This includes the site remediations in one of 39 States that the EPA has authorized to oversee cleanups at TSDF under RCRA corrective action. Site remediations administered under these federally-enforceable programs address the organic HAP emissions from the site remediations on a site-specific basis.

The overall objective of any site remediation, whether it be a Federal required, State required, or voluntary cleanup, is to remove the threat to human health and the environment posed by the presence of hazardous substances in the contaminated media and wastes that can potentially contaminate the media at the site. However, the actions taken at a given contamination site that remove the hazardous substances from water or soil by transferring those substances to the air is not in the best interest of protecting human health and the environment from exposure to these hazardous substances. Unlike CERCLA or RCRA corrective action cleanups, State regulatory and voluntary cleanup programs are not uniform on a national basis, any requirements imposed on a given site remediation are not federally-

enforceable by the EPA, and the programs may not specifically address site remediation air emissions. For these reasons, we cannot view these activities as the functional equivalent of MACT, and, therefore, we cannot justify extending the same exemption we provide for CERCLA Superfund or RCRA corrective action cleanups to site remediations conducted for State regulatory and voluntary cleanup programs. Therefore, we are maintaining the applicability of the final rule to those site remediations conducted for State regulatory and voluntary cleanup programs where the site remediation meets the applicability conditions specified in the final rule.

*F. How Does the Final Rule Apply to Cleanups of Leaking Underground Storage Tanks?*

*Comment:* Many commenters agreed with the decision to modify the site remediation source category listing to exclude remediation activities at leaking underground storage tanks (UST) located at gasoline service stations. However, commenters argued that because the types, sizes and purpose of UST used for the storage of motor fuels or heating oils at all types of commercial and industrial properties are comparable to those located at gasoline service stations, then remediation activities associated with any UST contamination cleanups regardless of location also should not be subject to the Site Remediation NESHAP.

*Response:* The rationale for our decision to modify description for the site remediation source category to exclude remediation activities from leaking UST located at gasoline service stations is based on our estimates of the total HAP emissions from a typical cleanup of contamination from the size and types of underground tanks commonly used at gasoline service station sites. These estimates indicate that the level of HAP emissions from these sites would be significantly below the major source threshold levels (*i.e.*, less than 10 tpy of a single HAP or 25 tpy of all HAP) (see 67 FR 49400). Gasoline service station sites are area sources. Site remediation was listed as a source category for MACT standard development to address HAP emissions at major sources where remediation technologies and practices also are used at the site to clean up contaminated environmental media (*e.g.*, soils, groundwaters, or surface waters) or other materials that pose a reasonable potential threat to contaminate environmental media. Our decision was not based on a determination that UST contamination cleanups regardless of

location should not be included in the site remediation source category. Therefore, we believe that if a leaking UST cleanup is conducted at a major source site then it is appropriate (and indeed mandated) to require the cleanup activities comply with the final Site Remediation NESHAP requirements.

*G. How Does the Final Rule Apply to Cleanups of Radioactive Mixed Waste?*

*Comment:* Six commenters opposed the proposal that any site remediation involving the cleanup of radioactive mixed waste not be subject to the Site Remediation NESHAP. These commenters argued that the existing Federal regulations for mixed waste are not adequately addressing the HAP emissions from remediation activities at existing facilities managing these types of wastes. Two commenters expressed support for the proposal because they believe that mixed wastes are already appropriately and protectively managed under the Atomic Energy Act and Nuclear Waste Policy Act.

*Response:* Radioactive mixed wastes (RMW) are wastes that contain radioactive materials as well as wastes listed or identified as hazardous under RCRA. Radioactive mixed wastes must be managed according to RCRA subtitle C regulations. In addition, these wastes are subject to standards administered by the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act (AEA) and Nuclear Waste Policy Act (NWPA) of 1982 that address the safe handling and disposal of radioactive waste.

In developing the air standards under CAA authority for stationary sources that potentially may manage wastes also subject to requirements under other legislative authorities, we consider the management practices required for these wastes to avoid inconsistencies between any CAA requirements that might be established and existing requirements under the other applicable authorities. We reviewed the special nature of existing requirements for managing radioactive mixed wastes with respect to requirements for the control of organic HAP emissions we proposed to establish under the final Site Remediation NESHAP. In certain cases, the air pollution controls used as the basis for the standards under the final Site Remediation NESHAP are not compatible with the NRC requirements for safe handling of radioactive mixed wastes. For example, drums used to store radioactive mixed waste cannot be sealed with vapor leak-tight covers because of unacceptable pressure buildup of hydrogen gas to levels that

can potentially cause rupture of the drum or create a potentially serious explosion hazard (a hazard which, by any commonsense measure, exceeds risk posed by emission of organic HAP). (See Air Docket ID No. OAR-2002-0021; see also S. Rep. No 228, 101st Cong. 1st sess. at 168 (“\* \* \* In cases where control strategies for two or more different pollutants are in actual conflict, the Administrator shall apply the same principle—maximum protection of human health shall be the objective test. \* \* \*”).)

The generation of hydrogen gas is a result of the radiolytic decomposition of organic compounds (*i.e.*, plastics) and/or aqueous solutions within the container. Plastics are commonly used as a barrier to alpha radiation both in handling operations and in waste packaging. Over time, the alpha particle causes the hydrolysis of chemical bonds within the plastic material which results in the release of hydrogen gas. Likewise, hydrolysis of aqueous solutions will yield hydrogen. Additionally, radiation-induced degradation and biodegradation of organic low-exchange resin waste, which are also RMW, generated during water treatment at nuclear facilities, can result in the production of gaseous products (*i.e.*, hydrogen and carbon dioxide) which in turn can result in pressure buildup and failure of the container. Consequently, a drum used for storage of radioactive mixed wastes must be continuously vented through special filters in accordance with technical guidance issued by the NRC to prevent the hydrogen concentration in the drum from reaching dangerous levels. Because of pressure build-up inside the container, a vent for gaseous compounds is necessary to prevent failure of a high-integrity container (*i.e.*, vent designs incorporated into high integrity containers restrict the release of radionuclides from the container into the environment while allowing the gas to be vented). (See RCRA Docket Items F-91-CESP-00046 and F-94-CESF-S0001, which are part of the administrative record for the final rule.)

In accordance with the Waste Isolation Pilot Plant (WIPP), Carlsbad, New Mexico, Waste Acceptance Plan (WAP), wastes that are to be shipped to the WIPP must be in containers that are vented to prevent the buildup of pressure. The container vents must be filtered to ensure that no radioactive waste components are released. For example, the Hazardous Waste Permit for the WIPP, dated November 25, 2002, in section M1-1d describing container management practices states on page M1-8 “\* \* \* Because containers at the WIPP will contain radioactive waste,

safety concerns require that containers be continuously vented to obviate the buildup of gases within the container. These gases could result from radiolysis, which is the breakdown of moisture by radiation. The vents, which are nominally 0.75 in. (1.9 centimeters) in diameter, are generally installed on or near the lids of the containers. These vents are filtered so that gas can escape while particulates are retained. \* \* \* In addition, the permit in the section describing the requirements for the standard transuranic mixed waste drums states on page M1-2, “\* \* \* One or more filtered vents (as described in section M1-1d) will be installed in the drum lid to prevent the escape of any radioactive particulates and to eliminate any potential of pressurization. \* \* \*”

To comply with these requirements, the drum lid is punctured to release any buildup of potentially explosive hydrogen gas and a specially-designed, carbon composite membrane filter vent is attached. The function of this filter vent is to retain radionuclides inside a container while allowing hydrogen and other gases (e.g., VOC) to pass through to the atmosphere. In particular, the carbon composite membrane used in the filter vent does not inhibit the passing of VOC from the container into the atmosphere.

Because it was judged an unsafe practice to store RMW drums and other containers with tight covers, and because the WIPP Waste Analysis Plan requires that containers be vented for shipment to the WIPP, we determined that many Department of Energy facilities may be unable to meet the tight cover control device criteria for containers as specified in the proposed Site Remediation NESHAP. In addition, we were unable to determine, if there were any available technologies that could be applied to the RMW containers that would control organic air emissions in a safe and cost-effective manner while also complying with WIPP and other AEA and NWSA requirements.

Information gathered and reviewed following proposal of the Site Remediation NESHAP does not indicate that the situation regarding the safety issue related to storage of RMW has changed since proposal. The potentially conflicting requirements for containers (and other storage units) to be vented under one set of rules versus the requirements for closed, tight fitting covers under the CAA rules remains to be resolved. We are not aware of any available device to control organic air emissions (such as an activated carbon filter) that can be used in combination with the carbon composite membrane filter vent on a RMW container. No

available technologies have been identified that could be applied to the RMW containers that would control organic air emissions in a safe and cost-effective manner while also complying with WIPP and other AEA and NWSA requirements. With no known controls in place on these sources, the MACT floor for RMW sources (e.g., RMW containers) appears to be no control beyond that already provided by the NRC and other applicable regulations. Codifying the same level of control already established under another regulatory authority as a MACT standard seems a needless expenditure of resources since it would not change existing practice or otherwise provide benefits not already provided by the existing regulations. Therefore, we have retained in the final rule an exemption from the air pollution control requirements under the final Site Remediation NESHAP for remediation material management units (e.g., tanks, containers, and surface impoundments) managing RMW.

Although the technical information and data we have collected support inclusion of an exemption for remediation material management units managing RMW from the air pollution control requirements under the final Site Remediation NESHAP, we concluded from our review of this information that this is not the case for site remediation treatment process vents and equipment leaks. The technical and safety concerns for the required controls for organic emissions from containers and tanks managing RMW are not an issue with the controls required by the final Site Remediation NESHAP for treatment unit process vents and equipment leaks if applied to remediation material streams that are classified as RMW. We have not identified any conflicting regulatory requirements that would preclude the use of air pollution controls on these sources as is the case with tanks and containers. Also, since 1990, remediation material streams classified as RMW have been subject to, and in compliance with, the air pollution control requirements in the national air standards we promulgated under RCRA authority to control total organic emissions from hazardous waste TSDF treatment process vents (subpart AA in 40 CFR parts 264 and 265) and equipment leaks (subpart BB in 40 CFR parts 264 and 265). The air pollution control requirements under these RCRA air rules are the same as the requirements for site remediation treatment process vents and equipment leaks included in the final Site

Remediation NESHAP. With demonstrated controls in place on these treatment unit and equipment component sources, MACT for these RMW sources (i.e., process vents and equipment leaks) would be established at the control levels required under those rules. Because the technical issues related to safety concerns for RMW containers and other storage units do not apply to treatment unit process vents and equipment leaks, we have written the final Site Remediation NESHAP to limit the exemption to only remediation material management units managing RMW. Remediation activities involving the cleanup of RMW that meet the final rule applicability criteria are subject to standards for treatment unit process vents and equipment leaks under the final Site Remediation NESHAP.

#### *H. How Does the Final Rule Apply to Short-Term Site Remediations at Affected Facilities?*

*Comment:* Commenters supported our proposal to exempt short-term cleanups from being subject to the emissions limitations and work practice standards but requested longer allowable cleanup intervals. Commenters argued that the proposed 7-day initiation period from the time the contamination occurs and 30-day cleanup period are too short because they do not account for circumstances beyond the control of an owner or operator which may delay discovery of the contamination or completing the cleanup within 30 days.

*Response:* We reviewed our proposed regulatory language for the exemption and concluded that the proposal does not accurately reflect our intent. Therefore, we have written in the final rule the approach we use to implement the exemption. This approach preserves our original intent as to which site remediations warrant exemption as well as addresses the concerns raised by commenters regarding the situations when a short-term site remediation takes longer to complete than initially planned and extends beyond the allowable time interval because of circumstances beyond their control.

The purpose of the final Site Remediation NESHAP is to control organic HAP emissions released to the atmosphere during site remediations. Organic HAP emissions from in-situ treatment processes primarily occur when an air or gas stream from the remediation process is exhausted to the atmosphere. Organic HAP emissions can be released from extraction or excavation of contaminated material and the subsequent handling, treatment, and disposal of these materials. The

emissions do not occur prior to the time that these remediation activities actually start.

We recognize that activities necessary to plan, arrange, and schedule the site remediation may take more than 30 days. Also, we recognize that there may be delays in starting the site remediation due to circumstances beyond the control of a site owner or operator such as waiting for necessary permit approvals from a State or local agency, or scheduling of personnel or equipment contracted to complete the cleanup work.

Furthermore, a site remediation does not occur until a source of actual or potential hazardous substance contamination is discovered. In many cases, when the contamination is discovered may not be the same time that the contamination occurs. For example, the new owner or operator of a site may discover a contaminated source requiring remediation that occurred years earlier due to improper practices of the previous site owner. We recognize that in many situations it is difficult, if not impossible, for facility owners and operators, as well as enforcement personnel, to verify whether a given site remediation is initiated within 7 days of the contamination occurring. Therefore, we decided to eliminate any conditional requirements for the exemption related to when the contamination occurred. Instead, it is more appropriate and practical to base the time limit for the short-term exemption on the period that the on site work is performed for those activities with the actual potential to emit HAP.

For the final Site Remediation NESHAP, we adopted the approach of exempting short-term site remediations that can be completed within a given number of consecutive calendar days as determined from the day that any action is first initiated that removes, destroys, degrades, transforms, immobilizes, or otherwise manages the remediation materials. In adopting this approach, we exclude those activities that need to be completed to perform a site remediation but are not responsible for the generation of HAP emissions from site remediations, namely: activities required to characterize the type and extent of the contamination by collecting and analyzing samples, to obtain any permits required by State or local authorities to conduct the site remediation, to schedule workers and necessary equipment, and to arrange for any contractor assistance in performing the site remediation.

Given our revised regulatory approach for the short-term site remediation

exemption, we re-evaluated the maximum time interval appropriate for the exemption. We proposed a maximum time interval of 30 days for the exemption. This proposed time interval included time to complete those sampling, planning, and scheduling activities that needed to perform a site remediation but are not part of the physical activities which cause HAP to be emitted at the cleanup site. Under the final rule, the exemption is based on the time interval required to complete only those remediation activities that actually emit or have a potential to emit HAP. We believe that the physical part of the site remediations we intend for this exemption to apply can reasonably be completed within a period much shorter than 30 days (e.g., 1 week, 14 days). However, there are situations where a remediation at a particular site which normally should be completed within these shorter periods cannot be due to factors beyond the control of the owner or operator that curtail or delay the remediation activities (such as severe weather or machinery breakdowns). Therefore, we decided that selecting a maximum time interval of 30 days for the exemption will allow a sufficient period to complete the types of cleanups we intend for this exemption to apply to and to provide a reasonable amount of leeway to account for any unforeseen circumstances that may develop at a site.

Finally, it is our intention that the short-term exemption only be applicable to those site remediations for which the cleanup of the entire contaminated area at the site can be completed within 30 consecutive days. The exemption is not intended to be used for longer term cleanups of contaminated areas whereby the remediation activities at the site are started, stopped, and then re-started in a series of intervals with durations less than 30 days per interval for which the total time of all of the intervals required to complete the site remediation exceeds a total of 30 days.

#### *I. How Does the Final Rule Apply to Remediation Materials Sent Off-Site From Affected Facilities?*

*Comment:* Commenters opposed the proposed rule requirements on the transfer of remediation material to another party or site. The commenters asserted that proposed requirements are unnecessarily burdensome on both the shipping and receiving parties. Furthermore, requiring owners and operators to submit a written certification of intent to comply with the final rule adds paperwork with little or no environmental or health benefit. The requirements also have the

potential to be an especially burdensome task for the off-site facility that are now an area source.

*Response:* The objective of a site remediation is to mitigate a detected risk to public health or the environment by successfully completing the cleanup of an area contaminated by a hazardous substance. At many remediation sites, the contaminated material is excavated or extracted and then shipped to another site for treatment or disposal. Simply moving contaminated material containing organic HAP from the cleanup site to another site across town or in another community does not address the potential for these HAP to be emitted to the air and, subsequently, pose a risk to public health or the environment. It merely transfers the risk to another locale. Nor does such a practice reflect the maximum emission reduction achievable, as required by CAA section 112(d)(2) and (3). Thus, there is a need to ensure that those remediation materials with the potential to emit organic HAP are managed and treated in units using appropriate air pollution controls regardless of where those units are located. To address this need, we are including in the final Site Remediation NESHAP the requirement that remediation material transferred to another party or shipped to another facility must be managed according to the air pollution control requirements specified in the final rule.

We believe that the transfer provision under the final Site Remediation NESHAP does not establish requirements that are burdensome on either the remediation material shipping or receiving parties. We expect that, for many of those situations where a remediation material is subject to the off-site transfer requirements under the final rule, the material will be sent to a facility that is already complying with subpart DD in 40 CFR part 63 or a hazardous waste TSDF already complying with the RCRA air standards under subparts AA, BB, and CC of 40 CFR part 264 or 265. The air pollution control requirements under subpart DD in 40 CFR part 63 and RCRA TSDF air rules are effectively the same as those required under the final Site Remediation NESHAP. Consequently, it is likely that many, if not all, of the sites receiving the types of remediation materials subject to the off-site transfer requirements will already be using the necessary air pollution controls to comply with these other CAA and RCRA air rules. Thus, the off-site transfer requirements in the final Site Remediation NESHAP should not impose a need for these sites to



purchase and install new air pollution controls.

While off-site waste and recovery operations and hazardous waste TSDF already should be properly equipped to receive and manage remediation materials from cleanup sites subject to the final Site Remediation NESHAP, there are no existing rules requiring all owners and operators performing cleanups of contaminated materials containing organic HAP to ship the remediation materials to such facilities. It is possible that there are special circumstances where remediation material is transferred to a facility other than a facility subject to subpart DD under 40 CFR part 63 or a hazardous waste TSDF. We also must address the potential for circumvention of the final rule's purpose at a site where the remediation material is simply excavated or extracted and then intentionally transferred outside the site's legal boundaries to avoid having to use air pollution controls. Thus, the level of control reflecting MACT provided by subpart DD under 40 CFR part 63 (and the corresponding RCRA subtitle C rules for air emissions) is not necessarily being provided for all remediation waste transfer operations, so a MACT standard would not merely duplicate existing regulatory requirements. In those cases where an off-site facility is receiving remediation material subject to regulation by the final Site Remediation NESHAP, but units at the facility currently are not using the air pollution controls required by the final Site Remediation NESHAP, the facility owner or operator has the option of declining to accept the remediation material from the cleanup site or installing the required air pollution controls on just those units that manage the remediation material.

While it is essential that the off-site transfer provision be included in the final Site Remediation NESHAP to ensure remediation materials from cleanup sites subject to the final rule are managed and treated in units using appropriate air pollution controls regardless of the units' location, we have reviewed the proposed recordkeeping, certification, and notification requirements associated with the off-site transfer provision. We can simplify the administrative requirements for the facility owners and operators and still effectively implement and enforce the off-site transfer provision. Therefore, we have written the final rule to simplify the recordkeeping and certification requirements for both owners and operators of facilities shipping as well as receiving the remediation materials.

Finally, the off-site transfer provision is not intended to trigger a title V permitting requirement for the owner or operator of a facility that currently is an area source. To address this situation, we have added in the final rule an explicit provision stating that the acceptance by a facility owner or operator of remediation material from remediation site subject to the final Site Remediation NESHAP does not, by itself, require the facility owner or operator to obtain a title V permit.

#### **IV. Summary of Environmental, Energy, and Economic Impacts**

We prepared estimates of the environmental, energy, and economic impacts for the proposed rule based on the best information available to us including remediation waste quantity and treatment practice data for the year 1997 and earlier. No new information or data applicable to the impact estimates were provided by commenters on the proposed rule. Since proposal we have reviewed our data sources to determine the availability of additional information to update and supplement our original database used for the impact estimates. We concluded that our original database remains the best available source of information available to us for estimating impacts for the final rule.

Furthermore, the changes made since proposal for the final rule do not change any of the assumptions we made for our original impact estimates. Therefore, our impact estimates for the proposed rule remain valid and applicable for the final rule. These impact estimates are summarized below.

##### *A. What Are the Air Emission Impacts?*

We estimated nationwide organic HAP emissions from the site remediations potentially subject to the final rule to be approximately 1,140 Mg/yr. Nationwide VOC emissions from regulated sources are estimated to be approximately 7,360 Mg/yr. (Although not all VOC are organic HAP, we may permissibly note the air benefits from controlling non-HAP pollutants such as VOC when considering a MACT standard. See S. Rep. 101-228, 101st Cong. 1st sess. 172). We estimate that implementation of the final rule will reduce these nationwide air emissions by approximately 50 percent to 570 Mg/yr of HAP and 3,680 Mg/yr of VOC.

##### *B. What Are the Cost Impacts?*

The nationwide total capital investment cost and the annual operating cost of the control equipment required to comply with the final rule are estimated to be approximately \$18

million and \$6 million per year, respectively. When fully implemented, the final rule is estimated to result in a total annual cost of approximately \$9 million per year.

##### *C. What Are the Economic Impacts?*

The final rule will affect certain owners and operators of facilities that are major sources of HAP emissions and at which a site remediation is conducted to clean up soils, groundwaters, surface waters, or certain other materials contaminated with one or more of the organic HAP listed in the final rule. Because of the nature of activities regulated by the source category, a comprehensive list of NAICS codes cannot be compiled for businesses or facilities potentially regulated by the final rule. As a result, the economic impact analyses focused on a set of industries from the 1997 Biennial Reporting System (BRS) database that were known to be large quantity generators of hazardous waste and who were remediating hazardous waste as part of a site remediation. The data provides an adequate overview of the potential impacts of the final rule. However, we recognize that the actual industries directly impacted by the final rule in the year the final rule is implemented and the costs incurred by these industries may differ somewhat from the set of industries identified in the 1997 BRS data and the costs assigned to these industries for the purposes of the economic analysis.

In general, we did not find evidence of significant impacts at the industry level. From the BRS data, over 80 industries were predicted to have annual compliance costs as a result of the final rule, and 15 industries accounted for 91 percent of the national compliance cost estimate. We used an engineering or financial analysis to estimate impacts, which takes the form of the ratio of compliance costs to the value of sales (cost-to-sales ratio (CSR)). We calculated CSR for 12 industries and found all had CSR below 0.02 percent. The CSR are less than the lower quartile return on sales for all industries with profitability data available. We did not compute CSR for the remaining three industries because revenue data were not available.

The CSR will likely overstate the impact on firms and understate the impact on consumers. The CSR assumes that there are no changes in the market as a result of the higher costs of production faced by the firms and that the firms continue to produce the same quantities, sell at the same price and absorb the full amount of the compliance costs.

Small business impacts were particularly difficult to assess because of the uncertainty over the facilities that actually will be impacted by the final rule. As a result, we concluded that sufficient data and related information did not exist to conduct a small business screening analysis.

#### *D. What Are the Non-Air Health, Environmental and Energy Impacts?*

Compliance with the standards in the final rule requires using types of control equipment commonly in use to control organic emissions from process sources at many of the industrial facilities at which site remediations are most likely to occur. The non-air environmental and energy impacts associated with implementing the requirements of the final rule primarily are expected to result from the operation of these control devices. No significant adverse water, solid waste, or energy impacts are expected as a result of the final rule.

### **V. Statutory and Executive Order Reviews**

#### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is, therefore, not subject to OMB review.

#### *B. Paperwork Reduction Act*

The information collection requirements in the final rule have been

submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information to be collected for the final Site Remediation NESHAP are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions in 40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The final rule requires maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions in subpart A to 40 CFR part 63. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual projected burden for this information collection to owners and operators of affected sources subject to the final rule (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be 341,737 labor-hours per year, with a total annual cost of \$17.7 million per year. These estimates include a one-time performance test and report (with repeat tests where needed), one-time submission of an SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance reports, maintenance inspections, notifications, and recordkeeping. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in the final rule.

#### *C. Regulatory Flexibility Act*

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administrations' regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

The final Site Remediation NESHAP sets minimum air standards under authority of the CAA to control HAP emissions to be met if a facility owner or operator conducts a site remediation subject to the final rule. The final rule places no requirement on any facility owner or operator to initiate site remediation activities. The duty for an owner or operator to conduct a site remediation is established under RCRA, CERCLA, State, or other regulatory authorities. Given that States and other parties often decide whether site remediation activities are to be conducted at a given facility, it is extremely difficult, if not impossible, for us to predict how many or what types of small entities will undertake such site remediation activities and in which cases these activities will be subject to the final Site Remediation NESHAP.

While we cannot predict the exact number or types of small entities that will be subject to the final Site Remediation NESHAP, we have structured the final rule applicability conditions and threshold levels to minimize any impacts on those small businesses that do conduct site

remediations. The final rule only applies to those site remediations conducted at a facility that is both a major source of HAP emissions (as defined in CAA section 112) and where there are other non-remediation stationary sources at the facility that meet one of the affected source definition specified for a source category which is regulated by another subpart under 40 CFR part 63. The facilities that meet these applicability conditions tend to be large businesses.

Furthermore, types of site remediations typically expected to occur at small businesses are not subject to the final Site Remediation NESHAP. For example, we specifically exclude from the final rule applicability those site remediations to clean up contamination resulting from leaking underground storage tanks at a gasoline service station, farm, or residential site (remediation activities at these sites were found not to exceed the threshold HAP emission levels required to be designated a major source). Also, we expect that the applicable thresholds for those site remediations required to use air pollution controls under the final Site Remediation NESHAP apply to few, if any, facilities that are small businesses. For example, use of air pollution controls are not required under the final rule for those site remediations that physically can be completed within 30 days or for which total quantity of organic HAP contained in the extracted remediation material is less than 1 Mg.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the final rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to

adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the final rule for any year has been estimated to be about \$24 million. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, the final rule is not subject to the requirements of section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to the final rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 9, 2000) requires us to develop "an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

We have concluded that the final Site Remediation NESHAP may have tribal implications since the types of site remediation activities subject to the final rule potentially could be conducted on tribal lands. However, we are not aware of any specific remediation activities on tribal lands presently being conducted that would be subject to the final rule. If a site remediation subject to the final rule is initiated on tribal lands in the future, it will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to the final rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, we nonetheless made attempts to invite tribal representatives to participate in the rulemaking activities early in the process of developing the final rule to permit them to have meaningful and timely input into its development. We contacted tribal representatives and groups directly to notify them of the final rule development activity and to solicit their participation. At proposal, we specifically requested comment on the proposed rule from tribal officials. No tribal representatives requested to participate in the rulemaking process, and we received no comments on the proposed rule from any tribal government.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of

the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. The final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

#### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The EPA cites the following standards in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 3, 4, 9, 18 (total organic HAP or total organic compounds), 21, 22, 25, 25A, 25D, 25E, 27, 305, 316 of 40 CFR part 60 appendix A, and Method 9095A in SW 846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in

addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 9, 21, 22, 25D, 25E, 27, 305, 316, and SW 846 Method 9095A. The search and review results have been documented and are placed in the docket (Docket ID No. OAR-2002-0021) for the final rule.

The search for emissions measurement procedures identified 10 other voluntary consensus standards. The EPA determined that eight of these 10 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule were impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, EPA does not intend to adopt these standards for this purpose. (See Docket ID No. OAR 2002-0021.)

Sections 63.7940 through 63.7944 to the final Site Remediation NESHAP specify the EPA testing methods to be used for demonstrating compliance with the final rule requirements. Under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

#### J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 20, 2003.

**Marianne Lamont Horinko**,  
*Acting Administrator.*

■ For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

■ 2. Part 63 is amended by adding subpart GGGGG to read as follows:

#### Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation

Sec.

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#### What This Subpart Covers

##### § 63.7880 What is the purpose of this subpart?

This subpart establishes national emissions limitations and work practice standards for hazardous air pollutants (HAP) emitted from site remediation activities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emissions limitations and work practice standards.

##### § 63.7881 Am I subject to this subpart?

(a) This subpart applies to you if you own or operate a facility at which you conduct a site remediation, as defined in § 63.7957; and this site remediation, unless exempted under paragraph (b) or (c) of this section, meets all three of the following conditions specified in paragraphs (a)(1) through (3) of this section.

(1) Your site remediation cleans up a remediation material, as defined in § 63.7957.

(2) Your site remediation is co-located at your facility with one or more other stationary sources that emit HAP and meet an affected source definition specified for a source category that is regulated by another subpart under 40 CFR part 63. This condition applies regardless whether or not the affected stationary source(s) at your facility is subject to the standards under the applicable subpart(s).

(3) Your facility is a major source of HAP as defined in § 63.2. A major source emits or has the potential to emit any single HAP at the rate of 10 tons (9.07 megagrams) or more per year of any HAP or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year. All emissions of HAP from every source at your facility (i.e., both the site remediation activity and all other facility activities) must be considered in making this calculation.

(b) You are not subject to this subpart if your site remediation qualifies for any of one of the exemptions listed in paragraphs (b)(1) through (6) of this section.

(1) Your site remediation is not subject to this subpart if the site remediation only cleans up material that does not contain any of the HAP listed in Table 1 of this subpart.

(2) Your site remediation is not subject to this subpart if the site remediation will be performed under the authority of the Comprehensive Environmental Response and Compensation Liability Act (CERCLA) as a remedial action or a non time-critical removal action.

(3) Your site remediation is not subject to this subpart if the site

remediation will be performed under a Resource Conservation and Recovery Act (RCRA) corrective action conducted at a treatment, storage and disposal facility (TSDF) that is either required by your permit issued by either the U.S. Environmental Protection Agency (EPA) or a State program authorized by the EPA under RCRA section 3006; required by orders authorized under RCRA; or required by orders authorized under RCRA section 7003.

(4) Your site remediation is not subject to this subpart if the site remediation is conducted at a gasoline service station to clean up remediation material from a leaking underground storage tank.

(5) Your site remediation is not subject to this subpart if the site remediation is conducted at a farm or residential site.

(6) Your site remediation is not subject to this subpart if the site remediation is conducted at a research and development facility that meets the requirements under Clean Air Act (CAA) section 112(c)(7).

(c) Your site remediation is not subject to this subpart, except for the recordkeeping requirements specified in this paragraph, if the site remediation meets the all of the conditions in paragraphs (c)(1) through (3) of this section.

(1) Before beginning the site remediation, you determine for the remediation material that you will excavate, extract, pump, or otherwise remove during your site remediation that the total quantity of the HAP listed in Table 1 of this subpart which is contained in the material is less than 1 megagram per year (Mg/yr).

(2) You prepare and maintain at your facility written documentation to support your determination of the total HAP quantity used to demonstrate compliance with paragraph (c)(1) of this section. This documentation must include a description of your methodology and data you used for determining the total HAP content of the material.

(3) This exemption may be applied to more than one site remediation at your facility provided that the total quantity of the HAP listed in Table 1 of this subpart for all of your site remediations exempted under this provision is less than 1 Mg/yr.

(d) Your site remediation is not subject to the requirements of this subpart if all remediation activities at your facility subject to this subpart are completed and you have notified the Administrator in writing that all remediation activities subject to this subpart are completed. You must

maintain records of compliance, in accordance with § 63.7953, for each remediation activity that was subject to this subpart. All future remediation activity meeting the applicability criteria in this section must comply with the requirements of this subpart.

**§ 63.7882 What site remediation sources at my facility does this subpart affect?**

(a) This subpart applies to each new, reconstructed, or existing affected source for your site remediation as designated by paragraphs (a)(1) through (3) of this section.

(1) *Process vents.* The affected source is the entire group of process vents associated with the in-situ and ex-situ remediation processes used at your site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material subject to remediation. Examples of such in-situ remediation processes include, but are not limited to, soil vapor extraction and bioremediation processes. Examples of such ex-situ remediation processes include but are not limited to, thermal desorption, bioremediation, and air stripping processes.

(2) *Remediation material management units.* Remediation material management unit means a tank, surface impoundment, container, oil-water separator, organic-water separator, or transfer system, as defined in § 63.7957, and is used at your site to manage remediation material. The affected source is the entire group of remediation material management units used for the site remediations at your site. For the purpose of this subpart, a tank or container that is also equipped with a vent that serves as a process vent, as defined in § 63.7957, is not a remediation material management unit, but instead this unit is considered to be a process vent affected source under paragraph (a)(1) of this section.

(3) *Equipment leaks.* The affected source is the entire group of equipment components (pumps, valves, etc.) used to manage remediation materials and meeting both of the conditions specified in paragraphs (a)(3)(i) and (ii) of this section. If either of these conditions do not apply to an equipment component, then that component is not part of the affected source for equipment leaks.

(i) The equipment component contains or contacts remediation material having a concentration of total HAP listed in Table 1 of this subpart equal to or greater than 10 percent by weight.

(ii) The equipment component is intended to operate for 300 hours or more during a calendar year in

remediation material service, as defined in § 63.7957.

(b) Each affected source for your site is existing if you commenced construction or reconstruction of the affected source before July 30, 2002.

(c) Each affected source for your site is new if you commenced construction or reconstruction of the affected source on or after July 30, 2002. An affected source is reconstructed if it meets the definition of reconstruction in § 63.2.

**§ 63.7883 When do I have to comply with this subpart?**

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than October 9, 2006.

(b) If you have a new affected source that manages remediation material other than a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (b)(1) or (2) of this section, as applicable to your affected source.

(1) If the affected source's initial startup date is on or before October 8, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you by October 8, 2003.

(2) If the affected source's initial startup date is after October 8, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(c) If you have a new affected source that manages remediation material that is a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (c)(1) or (2) of this section, as applicable to your affected source.

(1) If the affected source's initial startup date is on or before October 8, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than October 9, 2006.

(2) If the affected source's initial startup date is after October 8, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(d) If your facility is an area source that increases its emissions or its potential to emit such that it becomes a

major source of HAP as defined in § 63.2, then you must meet the compliance dates specified in paragraphs (d)(1) and (2) of this section.

(1) For each source at your facility that is a new affected source subject to this subpart, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup.

(2) For all other affected sources subject to this subpart, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than 3 years after your facility becomes a major source.

(e) You must meet the notification requirements, according to the schedule applicable to your facility, as specified in § 63.7950 and in 40 CFR part 63, subpart A. Some of the notifications must be submitted before you are required to comply with the emissions limitations and work practice standards in this subpart.

### General Standards

#### § 63.7884 What are the general standards I must meet for each site remediation with affected sources?

(a) For each site remediation with affected sources designated under § 63.7882, you must meet the standards specified in §§ 63.7885 through 63.7953, as applicable to your affected sources, unless your site remediation meets the requirements for an exemption under paragraph (b) of this section.

(b) A site remediation that is completed within 30 consecutive calendar days according to the conditions in paragraphs (b)(1) and (2) of this section is not subject to the standards under paragraph (a) of this section. This exemption cannot be used for a site remediation involving the staged or intermittent cleanup of remediation material whereby the remediation activities at the site are started, stopped, and then re-started in a series of intervals with durations less than 30-days per interval for which the total time of all of the intervals required to complete the site remediation exceeds a total of 30 days.

(1) The 30-day period for a site remediation is determined from the first day that any action is initiated that removes, destroys, degrades, transforms, immobilizes, or otherwise manages the remediation materials. The end of a site remediation is determined by the last day on which treatment or disposal of the remediation materials from the cleanup is completed. The following

activities, when completed before beginning this initial action, are not counted as part of the 30-day period: activities to characterize the type and extent of the contamination by collecting and analyzing samples, activities to obtain permits from Federal, State, or local authorities to conduct the site remediation, activities to schedule workers and necessary equipment, and activities to arrange for contractor or third party assistance in performing the site remediation.

(2) You must prepare and maintain at your facility written documentation describing the exempted site remediation, and listing the initiation and completion dates for the site remediation.

#### § 63.7885 What are the general standards I must meet for my affected process vents?

(a) For the process vents that comprise the affected source designated under § 63.7882, you must select and meet the requirements under one of the options specified in paragraph (b) of this section.

(b) For each affected process vent, except as exempted under paragraph (c) of this section, you must meet one of the options in paragraphs (b)(1) through (3) of this section.

(1) You control HAP emissions from the affected process vents according to the standards specified in §§ 63.7890 through 63.7893.

(2) You determine for the remediation material treated or managed by the process vented through the affected process vents that the average total volatile organic hazardous air pollutant (VOHAP) concentration, as defined in § 63.7957, of this material is less than 10 parts per million by weight (ppmw). Determination of the VOHAP concentration is made using the procedures specified in § 63.7943.

(3) If the process vent is also subject to another subpart under 40 CFR part 61 or 40 CFR part 63, you control emissions of the HAP listed in Table 1 of this subpart from the affected process vent in compliance with the standards specified in the applicable subpart. This means you are complying with all applicable emissions limitations and work practice standards under the other subpart (e.g., you install and operate the required air pollution controls or have implemented the required work practice to reduce HAP emissions to levels specified by the applicable subpart). This provision does not apply to any exemption of the affected source from the emissions limitations and work practice standards allowed by the other applicable subpart.

(c) A process vent that meets the exemption requirements in paragraphs (c)(1) and (2) of this section is exempted from the requirements in paragraph (b) of this section.

(1) The process vent stream exiting the process vent meets the conditions in either paragraph (c)(1)(i) or (ii) of this section.

(i) The process vent stream flow rate is less than 0.005 cubic meters per minute ( $\text{m}^3/\text{min}$ ) at standard conditions (as defined in 40 CFR 63.2); or

(ii) The process vent stream flow rate is less than  $6.0 \text{ m}^3/\text{min}$  at standard conditions (as defined in 40 CFR 63.2) and the total concentration of HAP listed in Table 1 of this subpart is less than 20 parts per million by volume (ppmv).

(2) You must demonstrate that the process vent stream meets the applicable exemption conditions in paragraph (c)(1) of this section using the procedures specified in § 63.694(m).

You must prepare and maintain documentation at your facility to support your determination of the process vent stream flow rate. This documentation must include identification of each process vent exempted under this paragraph and the test results used to determine the process vent stream flow rate and total HAP concentration, as applicable to the exemption conditions for your process vent. You must perform a new determination of the process vent stream flow rate and total HAP concentration, as applicable to the exemption conditions for your process vent, whenever changes to operation of the unit on which the process vent is used could cause the process vent stream conditions to exceed the maximum limits of the exemption.

#### § 63.7886 What are the general standards I must meet for my affected remediation material management units?

(a) For each remediation material management unit that is part of an affected source designated by § 63.7882, you must select and meet the requirements under one of the options specified in paragraph (b) of this section except for those remediation material management units exempted under paragraph (c) or (d) of this section.

(b) For each affected remediation material management unit, you must meet one of the options in paragraphs (b)(1) through (4) of this section.

(1) You control HAP emissions from the affected remediation material management unit according to the standards specified in paragraphs (b)(1)(i) through (v) of this section, as applicable to the unit.

(i) If the remediation material management unit is a tank, then you control HAP emissions according to the standards specified in §§ 63.7895 through 63.7898.

(ii) If the remediation material management unit is a container, then you control HAP emissions according to the standards specified in §§ 63.7900 through 63.7903.

(iii) If the remediation material management unit is a surface impoundment, then you control HAP emissions according to the standards specified in §§ 63.7905 through 63.7908.

(iv) If the remediation material management unit is a oil-water or organic-water separator, then you control HAP emissions according to the standards specified in §§ 63.7910 through 63.7913.

(v) If the remediation material management unit is a transfer system, then you control HAP emissions according to the standards specified in §§ 63.7915 through 63.7918.

(2) You determine for the remediation material placed in the remediation material management unit that the average total VOHAP concentration, as defined in § 63.7957, of this material is less than 500 ppmw. Determination of the total VOHAP concentration is made based on the remediation material composition at the point-of-extraction, as defined in § 63.7957, using the procedures specified in § 63.7943.

(3) If the remediation material management unit is also subject to another subpart under 40 CFR part 61 or 40 CFR part 63, you control emissions of the HAP listed in Table 1 of this subpart from the affected remediation material management unit in compliance with the standards specified in the applicable subpart. This means you are complying with all applicable emissions limitations and work practice standards under the other subpart (e.g., you install and operate the required air pollution controls or have implemented the required work practice to reduce HAP emissions to levels specified by the applicable subpart). This provision does not apply to any exemption of the affected source from the emissions limitations and work practice standards allowed by the other applicable subpart.

(4) If the remediation material management unit is an open tank or surface impoundment used for a biological treatment process, you meet the requirements as specified in paragraphs (b)(4)(i) and (ii) of this section.

(i) You demonstrate that the biological treatment process conducted in the open tank or surface impoundment

meets the performance levels specified in either § 63.684(b)(4)(i) or (ii).

(ii) You monitor the biological treatment process conducted in the open tank or surface impoundment according to the requirements in § 63.684(e)(4).

(c) A remediation material management unit is exempted from the requirements in paragraph (b) of this section if this unit is used for cleanup of radioactive mixed waste, as defined in § 63.7957, that is subject to applicable regulations, directives, and other requirements under the Atomic Energy Act, the Nuclear Waste Policy Act, or the Waste Isolation Pilot Plant Land Withdrawal Act.

(d) One or a combination of remediation material management units may be exempted at your discretion from the requirements in paragraph (b) of this section provided that the total annual quantity of HAP listed in Table 1 of this subpart contained in the remediation material placed in all of the remediation material management units exempted under this paragraph is less than 1 Mg/yr. For each remediation material management unit you select to be exempted under this provision, you must meet the requirements in paragraphs (d)(1) and (2) of this section.

(1) You must designate each of the remediation material management units you are selecting to be exempted under this paragraph by either submitting to the Administrator a written notification identifying the exempt units or permanently marking the exempt units at the facility site. If you choose to prepare and submit a written notification, this notification must include a site plan, process diagram, or other appropriate documentation identifying each of the exempt units. If you choose to permanently mark the exempt units, each exempt unit must be marked in such a manner that it can be readily identified as an exempt unit from the other remediation material management units located at the site.

(2) You must prepare an initial determination of the total annual HAP quantity in the remediation material placed in the units exempted under this paragraph. This determination is based on the total quantity of the HAP listed in Table 1 of this subpart as determined at the point where the remediation material is placed in each exempted unit. You must perform a new determination whenever the extent of changes to the quantity or composition of the remediation material placed in the exempted units could cause the total annual HAP content in the remediation material to exceed 1 Mg/yr. You must maintain documentation to support the

most recent determination of the total annual HAP quantity. This documentation must include the basis and data used for determining the organic HAP content of the remediation material.

**§ 63.7887 What are the general standards I must meet for my affected equipment leak sources?**

You must control HAP emissions from equipment leaks from each equipment component that is part of the affected source specified in § 63.7882 by implementing leak detection and control measures according to the standards specified in §§ 63.7920 through 63.7922.

**§ 63.7888 How do I implement this rule at my facility using the cross-referenced requirements in other subparts?**

(a) For the purposes of this subpart, when you read the term "HAP listed in Table 1 of this subpart" in a cross-referenced section under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations, you should refer to Table 1 of this subpart.

(b) For the purposes of this subpart, when you read the term off-site material in a cross-referenced section under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations you should substitute the term remediation material, as defined in § 63.7957.

(c) For the purposes of this subpart, when you read the term regulated material in a cross-referenced section under 40 CFR part 63, subparts OO, PP, QQ, RR, TT, UU, WW, and VV you should substitute the term remediation material, as defined in § 63.7957.

**Process Vents**

**§ 63.7890 What emissions limitations and work practice standards must I meet for process vents?**

(a) You must control HAP emissions from each new and existing process vent subject to § 63.7885(b)(1) according to emissions limitations and work practice standards in this section that apply to your affected process vents.

(b) For your affected process vents, you must meet one of the facility-wide emission limit options specified in paragraphs (b)(1) through (4) of this section. If you have multiple affected process vent streams, you may comply with this paragraph using a combination of controlled and uncontrolled process vent streams that achieve the facility-wide emission limit that applies to you.

(1) Reduce from all affected process vents the total emissions of the HAP



listed in Table 1 of this subpart to a level less than 1.4 kilograms per hour (kg/hr) and 2.8 Mg/yr (3.0 pounds per hour (lb/hr) and 3.1 tpy); or

(2) Reduce from all affected process vents the emissions of total organic carbon (TOC) (minus methane and ethane) to a level below 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy); or

(3) Reduce from all affected process vents the total emissions of the HAP listed in Table 1 of this subpart by 95 percent by weight or more; or

(4) Reduce from all affected process vents the emissions of TOC (minus methane and ethane) by 95 percent by weight or more.

(c) For each closed vent system and control device you use to comply with paragraph (b) of this section, you must meet the operating limit requirements and work practice standards in § 63.7925(c) through (j) that apply to your closed vent system and control device.

**§ 63.7891 How do I demonstrate initial compliance with the emissions limitations and work practice standards for process vents?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7890(b) applicable to your affected process vents by meeting the requirements in paragraphs (b) through (d) of this section.

(b) You have measured or determined using the procedures for performance tests and design evaluations in § 63.7941 that emission levels from all of your affected process vents meet the facility-wide emission limits in § 63.7890(b) that apply to you, as follows in paragraphs (b)(1) through (4) of this section.

(1) If you elect to meet § 63.7890(b)(1), you demonstrate that the total emissions of the HAP listed in Table 1 of this subpart from all affected process vents at your facility are less than 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy).

(2) If you elect to meet § 63.7890(b)(2), you demonstrate that emissions of TOC (minus methane and ethane) from all affected process vents at your facility are less than 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy).

(3) If you elect to meet § 63.7890(b)(3), you demonstrate that the total emissions of the HAP listed in Table 1 of this subpart from all affected process vents are reduced by 95 percent by weight or more.

(4) If you elect to meet § 63.7890(b)(4), you demonstrate that the emissions of TOC (minus methane and ethane) from all affected process vents are reduced by 95 percent by weight or more.

(c) For each closed vent system and control device you use to comply with § 63.7890(b), you have met each requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

(d) You have submitted a notification of compliance status according to the requirements in § 63.7950.

**§ 63.7892 What are my inspection and monitoring requirements for process vents?**

For each closed vent system and control device you use to comply with § 63.7890(b), you must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

**§ 63.7893 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for process vents?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7890 applicable to your affected process vents by meeting the requirements in paragraphs (b) through (d) of this section.

(b) You must maintain emission levels from all of your affected process vents to meet the facility-wide emission limits in § 63.7890(b) that apply to you, as specified in the following paragraph (b)(1) through (4) of this section.

(1) If you elect to meet § 63.7890(b)(1), you maintain the total emissions of the HAP listed in Table 1 of this subpart from all affected process vents at your facility are less than 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy).

(2) If you elect to meet § 63.7890(b)(2), you maintain emissions of TOC (minus methane and ethane) from all affected process vents at your facility are less than 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy).

(3) If you elect to meet § 63.7890(b)(3), you maintain the total emissions of the HAP listed in Table 1 of this subpart from all affected process vents are reduced by 95 percent by weight or more.

(4) If you elect to meet § 63.7890(b)(4), you maintain that the emissions of TOC (minus methane and ethane) from all affected process vents are reduced by 95 percent by weight or more.

(c) For each closed vent system and control device you use to comply with § 63.7890(b), you have met each requirement for demonstrating continuous compliance with the emission limitations and work practice

standards for a closed vent system and control device in § 63.7928.

(d) Keeping records to document continuous compliance with the requirements of this subpart according to the requirements in § 63.7952.

**Tanks**

**§ 63.7895 What emissions limitations and work practice standards must I meet for tanks?**

(a) You must control HAP emissions from each new and existing tank subject to § 63.7886(b)(1)(i) according to emissions limitations and work practice standards in this section that apply to your affected tanks.

(b) For each affected tank, you must install and operate air pollution controls that meet the requirements in paragraphs (b)(1) through (4) of this section that apply to your tank.

(1) Unless your tank is used for a waste stabilization process, as defined in § 63.7957, you must determine the maximum HAP vapor pressure (expressed in kilopascals (kPa)) of the remediation material placed in your tank using the procedures specified in § 63.7944.

(2) If the maximum HAP vapor pressure of the remediation material you place in your tank is less than 76.6 kPa, then you must determine which tank level controls (*i.e.*, Tank Level 1 or Tank Level 2) apply to your tank as shown in Table 2 of this subpart, and based on your tank's design capacity (expressed in cubic meters (m<sup>3</sup>)) and the maximum HAP vapor pressure of the remediation material you place in this tank. If your tank is required by Table 2 of this subpart to use Tank Level 1 controls, then you must meet the requirements in paragraph (c) of this section. If your tank is required by Table 2 of this subpart to use Tank Level 2 controls, then you must meet the requirements in paragraph (d) of this section.

(3) If maximum HAP vapor pressure of the remediation material you place in your tank is 76.6 kPa or greater, then the tank must use one of the Tank Level 2 controls specified in paragraphs (d)(3) through (5) of this section. Use of floating roofs under paragraph (d)(1) or (2) of this section is not allowed for tanks managing these remediation materials.

(4) A tank used for a waste stabilization process, as defined in § 63.7957, must use one of Tank Level 2 controls, as specified in paragraph (d) of this section, that is appropriate for your waste stabilization process.

(c) If you use Tank Level 1 controls, you must install and operate a fixed roof according to the requirements in § 63.902. As an alternative to using this

fixed roof, you may choose to use one of Tank Level 2 controls in paragraph (d) of this section.

(d) If you use Tank Level 2 controls, you must meet the requirements of one of the options in paragraphs (d)(1) through (5) of this section.

(1) Install and operate a fixed roof with an internal floating roof according to the requirements in § 63.1063(a)(1)(i), (a)(2), and (b); or

(2) Install and operate an external floating roof according to the requirements in § 63.1063(a)(1)(ii), (a)(2), and (b); or

(3) Install and operate a fixed roof vented through a closed vent system to a control device according to the requirements in § 63.685(g). You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device; or

(4) Install and operate a pressure tank according to the requirements in § 63.685(h); or

(5) Locate the tank inside a permanent total enclosure and vent emissions from the enclosure through a closed vent system to a control device that is an enclosed combustion device according to the requirements in § 63.685(i). You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(e) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your tanks. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

**§ 63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7895 that apply to your affected tanks by meeting the requirements in paragraphs (b) through (h) of this section, as applicable to your containers.

(b) You have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) and (2) of this section.

(1) You have determined the applicable tank control levels specified in § 63.7895(b) for the tanks to be used for your site remediation.

(2) You have determined, according to the procedures § 63.7944, and recorded the maximum HAP vapor pressure of

the remediation material placed in each affected tank subject to § 63.7886(b)(1)(i) that does not use Tank Level 2 controls.

(c) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 1 controls if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(1) through (3) of this section.

(1) Each tank using Tank Level 1 controls is equipped with a fixed roof and closure devices according to the requirements in § 63.902(b) and (c) and you have records documenting the design.

(2) You have performed an initial visual inspection of the fixed roof and closure devices for defects according to the requirements in § 63.906(a) and you have records documenting the inspection results.

(3) You will operate the fixed roof and closure devices according to the requirements in § 63.902.

(d) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 2 controls and using a fixed roof with an internal floating roof according to § 63.7895(d)(1) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (d)(1) through (3) of this section.

(1) Each tank is equipped with an internal floating roof that meets the requirements in § 63.1063(a) and you have records documenting the design.

(2) You will operate the internal floating roof according to the requirements in § 63.1063(b).

(3) You have performed an initial visual inspection according to the requirements in § 63.1063(d)(1) and you have a record of the inspection results.

(e) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 2 controls and using an external floating roof according to § 63.7895(d)(2) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (e)(1) through (3) of this section.

(1) Each tank is equipped with an external floating roof that meets the requirements in § 63.1063(a) and you have records documenting the design.

(2) You will operate the external floating roof according to the requirements in § 63.1063(b).

(3) You have performed an initial seal gap measurement inspection according to the requirements in § 63.1063(d)(3) and you have records of the measurement results.

(f) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 2 controls and using a fixed roof vented to a control device according to § 63.7895(d)(3) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (f)(1) through (4) of this section.

(1) Each tank is equipped with a fixed roof and closure devices according to the requirements in § 63.902(b) and (c) and you have records documenting the design.

(2) You have performed an initial visual inspection of fixed roof and closure devices for defects according to the requirements in § 63.695(b)(3) and you have records documenting the inspection results.

(3) You will operate the fixed roof and closure devices according to the requirements in § 63.685(g).

(4) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

(g) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 2 controls and operates as a pressure tank according to § 63.7895(d)(4) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (g)(1) and (2) of this section.

(1) Each tank is designed to operate as a pressure tank according to the requirements in § 63.685(h), and you have records documenting the design.

(2) You will operate the pressure tank and according to the requirements in § 63.685(h).

(h) You must demonstrate initial compliance of each tank determined under paragraph (b) of this section to require Tank Level 2 controls and using a permanent total enclosure vented to an enclosed combustion device according to § 63.7895(d)(5) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (h)(1) and (2) of this section.

(1) You have submitted as part of your notification of compliance status a

signed statement that you have performed the verification procedure according to the requirements in § 63.685(i), and you have records of the supporting calculations and measurements.

(2) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

#### **§ 63.7897 What are my inspection and monitoring requirements for tanks?**

(a) You must visually inspect each of your tanks using Tank Level 1 controls for defects at least annually according to the requirements in § 63.906(a).

(b) You must inspect and monitor each of your tanks using Tank Level 2 controls according to the requirements in paragraphs (b)(1) through (5), as applicable to your tanks.

(1) If you use a fixed roof with an internal floating roof according to § 63.7895(d)(1), you must visually inspect the fixed roof and internal floating roof according to the requirements in § 63.1063(d)(1) and (2).

(2) If you use an external floating roof according to § 63.7895(d)(2), you must visually inspect the external floating roof according to the requirements in § 63.1063(d)(1) and inspect the seals according to the requirements in § 63.1063(d)(2) and (3).

(3) If you use a fixed roof vented to a control device according to § 63.7895(d)(3), you must meet requirements in paragraphs (b)(3)(i) and (ii) of this section.

(i) You must visually inspect the fixed roof and closure devices for defects according to the requirements in § 63.695(b)(3).

(ii) You must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

(4) If you use a pressure tank according to § 63.7895(d)(4), you must visually inspect the tank and its closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.685(h).

(5) If you use a permanent total enclosure vented to an enclosed combustion device according to § 63.7895(d)(5), you must meet requirements in paragraphs (b)(5)(i) and (ii) of this section.

(i) You must perform the verification procedure for the permanent total enclosure at least annually according to the requirements in § 63.685(i).

(ii) You must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

#### **§ 63.7898 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for tanks?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7895 applicable to your affected tanks by meeting the requirements in paragraphs (b) through (d) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable tank control level specified in § 63.7895(b) for each affected tank by meeting the requirements in paragraphs (b)(1) through (3) of this section.

(1) Keeping records of the tank design capacity according to the requirements in § 63.1065(a).

(2) For tanks subject to § 63.7886(b)(1)(ii) and not using Tank Level 2 controls, meeting the requirements in paragraphs (b)(2)(i) and (ii) of this section.

(i) Keeping records of the maximum HAP vapor pressure determined according to the procedures in § 63.7944 for the remediation material placed in each affected tank.

(ii) Performing a new determination of the maximum HAP vapor pressure whenever changes to the remediation material managed in the tank could potentially cause the maximum HAP vapor pressure to increase to a level that is equal to or greater than the maximum HAP vapor pressure for the tank design capacity specified in Table 2. You must keep records of each determination.

(3) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(c) You must demonstrate continuous compliance for each tank determined to require Tank Level 1 controls by meeting the requirements in paragraphs (c)(1) through (5) of this section.

(1) Operating and maintaining the fixed roof and closure devices according to the requirements in § 63.902(c).

(2) Visually inspecting the fixed roof and closure devices for defects at least annually according to the requirements in § 63.906(a).

(3) Repairing defects according to the requirements in § 63.63.906(b).

(4) Recording the information specified in § 63.907(a)(3) and (b).

(5) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(d) You must demonstrate continuous compliance for each tank determined to require Tank Level 2 controls and using a fixed roof with an internal floating

roof according to § 63.7895(d)(1) by meeting the requirements in paragraphs (d)(1) through (5) of this section.

(1) Operating and maintaining the internal floating roof according to the requirements in § 63.1063(b).

(2) Visually inspecting the internal floating roof according to the requirements in § 63.1063(d)(1) and (2).

(3) Repairing defects according to the requirements in § 63.1063(e).

(4) Recording the information specified in § 63.1065(b) through (d).

(5) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(e) You must demonstrate continuous compliance for each tank determined to require Tank Level 2 controls and using an external floating roof according to § 63.7895(d)(2) by meeting the requirements in paragraphs (e)(1) through (5) of this section.

(1) Operating and maintaining the external floating roof according to the requirements in § 63.1063(b).

(2) Visually inspecting the external floating roof according to the requirements in § 63.1063(d)(1) and inspecting the seals according to the requirements in § 63.1063(d)(2) and (3).

(3) Repairing defects according to the requirements in § 63.1063(e).

(4) Recording the information specified in § 63.1065(b) through (d).

(5) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(f) You must demonstrate continuous compliance for each tank determined to require Tank Level 2 controls and using a fixed roof vented to a control device according to § 63.7895(d)(3) by meeting the requirements in paragraphs (f)(1) through (6) of this section.

(1) Operating and maintaining the fixed roof and closure devices according to the requirements in § 63.685(g).

(2) Visually inspecting the fixed roof and closure devices for defects at least annually according to the requirements in § 63.695(b)(3)(i).

(3) Repairing defects according to the requirements in § 63.695(b)(4).

(4) Recording the information specified in § 63.696(e).

(5) Meeting each applicable requirement for demonstrating continuous compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7928.

(6) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(g) You must demonstrate continuous compliance for each tank determined to

require Tank Level 2 controls and operated as a pressure tank according to § 63.7895(d)(4) by meeting the requirements in paragraphs (g)(1) through (3) of this section.

(1) Operating and maintaining the pressure tank and closure devices according to the requirements in § 63.685(h).

(2) Visually inspecting each pressurized tank and closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.685(h), and recording the results of each inspection.

(3) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(h) You must demonstrate continuous compliance for each tank determined to require Tank Level 2 controls and using a permanent total enclosure vented to an enclosed combustion device according to § 63.7895(d)(5) by meeting the requirements in paragraphs (h)(1) through (4) of this section.

(1) Performing the verification procedure for the enclosure annually according to the requirements in § 63.685(i).

(2) Recording the information specified in § 63.696(f).

(3) Meeting each applicable requirement for demonstrating continuous compliance with the emissions limitations and work practice standards for a closed vent system and control device in § 63.7928.

(4) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

## Containers

### § 63.7900 What emissions limitations and work practice standards must I meet for containers?

(a) You must control HAP emissions from each new and existing container subject to § 63.7886(b)(1)(ii) according to emissions limitations and work practice standards in this section that apply to your affected containers.

(b) For each container having a design capacity greater than 0.1 m<sup>3</sup> you must meet the requirements in paragraph (b)(1) or (2) of this section that apply to your container except at the times the container is used for treatment of remediation material by a waste stabilization process, as defined in § 63.7957. As an alternative for any container subject to this paragraph, you may choose to meet the requirements in paragraph (d) of this section.

(1) If the design capacity of your container is less than or equal to 0.46 m<sup>3</sup>, then you must use controls

according to the standards for Container Level 1 controls as specified in § 63.922. As an alternative, you may choose to use controls according to either of the standards for Container Level 2 controls as specified in § 63.923.

(2) If the design capacity of your container is greater than 0.46 m<sup>3</sup>, then you must use controls according to the standards for Container Level 2 controls as specified in § 63.923 except as provided for in paragraph (b)(3) of this section.

(3) As an alternative to meeting the standards in paragraph (b)(2) of this section for containers with a capacity greater than 0.46 m<sup>3</sup>, if you determine that either of the conditions in paragraphs (b)(3)(i) or (ii) apply to the remediation material placed in your container, then you may use controls according to the standards for Container Level 1 controls as specified in § 63.922.

(i) Vapor pressure of every organic constituent in the remediation material placed in your container is less than 0.3 kPa at 20°C; or

(ii) Total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C in the remediation material placed in your container is less than 20 percent by weight.

(c) At times when a container having a design capacity greater than 0.1 m<sup>3</sup> is used for treatment of a remediation material by a waste stabilization process as defined in § 63.7957, you must control air emissions from the container during the process whenever the remediation material in the container is exposed to the atmosphere according to the standards for Container Level 3 controls as specified in § 63.924. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(d) As an alternative to meeting the requirements in paragraph (b) of this section, you may choose to use controls on your container according to the standards for Container Level 3 controls as specified in § 63.924. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(e) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your containers. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

### § 63.7901 How do I demonstrate initial compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7990 that apply to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section, as applicable to your containers.

(b) You have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) and (2) of this section.

(1) You have determined the applicable container control levels specified in § 63.7990 for the containers to be used for your site remediation.

(2) You have determined and recorded the maximum vapor pressure or total organic concentration for the remediation material placed in containers with a design capacity greater than 0.46 m<sup>3</sup>, and do not use Container Level 2 or Level 3 controls.

(c) You must demonstrate initial compliance of each container determined under paragraph (b) of this section to require Container Level 1 controls if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(1) and (2) of this section.

(1) Each container using Container Level 1 controls will be one of the containers specified in § 63.922(b).

(2) You will operate each container cover and closure device according to the requirements in § 63.922(d).

(d) You must demonstrate initial compliance of each container determined under paragraph (b) of this section to require Container Level 2 controls if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (d)(1) through (4) of this section.

(1) Each container using Container Level 2 controls will be one of the containers specified in § 63.923(b).

(2) You will transfer remediation materials into and out of each container according to the procedures in § 63.923(d).

(3) You will operate and maintain the container covers and closure devices according to the requirements in § 63.923(d).

(4) You have records that the container meets the applicable U.S. Department of Transportation

regulations, or you have conducted an initial test of each container for no detectable organic emissions using the procedures in § 63.925(a), and have records documenting the test results, or you have demonstrated within the last 12 months that each container is vapor-tight according to the procedures in § 63.925(a) and have records documenting the test results.

(e) You must demonstrate initial compliance of each container determined under paragraph (b) of this section to require Container Level 3 controls if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (e)(1) and (2) of this section.

(1) For each permanent total enclosure you use to comply with § 63.7900, you have performed the verification procedure according to the requirements in § 63.924(c)(1), and prepare records of the supporting calculations and measurements.

(2) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

**§ 63.7902 What are my inspection and monitoring requirements for containers?**

(a) You must inspect each container using Container Level 1 or Container Level 2 controls according to the requirements in § 63.926(a).

(b) If you use Container Level 3 controls, you must meet requirements in paragraphs (b)(1) and (2) of this section, as applicable to your site remediation.

(1) You must perform the verification procedure for each permanent total enclosure annually according to the requirements in § 63.924(c)(1).

(2) You must monitor and inspect each closed vent system and control device according to the requirements in § 63.7927 that apply to you.

**§ 63.7903 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for containers?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7990 applicable to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable container control level specified in § 63.7990(b) for each affected tank by meeting the

requirements in paragraphs (b)(1) through (3) of this section.

(1) Keeping records of the quantity and design capacity for each type of container used for your site remediation and subject to § 63.7886(b)(1)(ii).

(2) For containers subject to § 63.7886(b)(1)(ii) with a design capacity greater than 0.46 m<sup>3</sup> and not using Container Level 2 or Container Level 3 controls, meeting the requirements in paragraphs (b)(2)(i) and (ii) of this section.

(i) Keeping records of the maximum vapor pressure or total organic concentration for the remediation material placed in the containers, as applicable to the conditions in § 63.7900(b)(3)(i) or (ii) for which your containers qualify to use Container Level 1 controls.

(ii) Performing a new determination whenever changes to the remediation material placed in the containers could potentially cause the maximum vapor pressure or total organic concentration to increase to a level that is equal to or greater than the conditions specified in § 63.7900(b)(3)(i) or (ii), as applicable to your containers. You must keep records of each determination.

(3) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

(c) You must demonstrate continuous compliance for each container determined to require Container Level 1 controls by meeting the requirements in paragraphs (c)(1) through (5) of this section.

(1) Operating and maintaining covers for each container according to the requirements in § 63.922(d).

(2) Inspecting each container annually according to the requirements in § 63.926(a)(2).

(3) Emptying or repairing each container according to the requirements in § 63.926(a)(3).

(4) Keeping records of an inspection that includes the information in paragraphs (a)(4)(i) and (ii) of this section.

(i) Date of each inspection; and  
(ii) If a defect is detected during an inspection, the location of the defect, a description of the defect, the date of detection, the corrective action taken to repair the defect, and if repair is delayed, the reason for any delay and the date completion of the repair is expected.

(5) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

(d) You must demonstrate continuous compliance for each container

determined to require Container Level 2 controls by meeting the requirements in paragraphs (d)(1) through (6) of this section.

(1) Transferring remediation material in and out of the container according to the requirements in § 63.923(c).

(2) Operating and maintaining container covers according to the requirements in § 63.923(d).

(3) Inspecting each container annually according to the requirements in § 63.926(a)(2).

(4) Emptying or repairing containers according to the requirements in § 63.926(a)(3).

(5) Keeping records of each inspection that include the information in paragraphs (d)(5)(i) and (ii) of this section.

(i) Date of each inspection; and  
(ii) If a defect is detected during an inspection, the location of the defect, a description of the defect, the date of detection, the corrective action taken to repair the defect, and if repair is delayed, the reason for any delay and the date completion of the repair is expected.

(6) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(e) You must demonstrate continuous compliance for each container determined to require Container Level 3 controls by meeting the requirements in paragraphs (e)(1) through (4) of this section.

(1) Performing the verification procedure for the enclosure annually according to the requirements in § 63.685(i).

(2) Recording the information specified in § 63.696(f).

(3) Meeting each applicable requirement for demonstrating continuous compliance with the emissions limitations and work practice standards for a closed vent system and control device in § 63.7928.

(4) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

**Surface Impoundments**

**§ 63.7905 What emissions limitations or work practice standards must I meet for surface impoundments?**

(a) You must control HAP emissions from each new and existing surface impoundment subject to § 63.7886(b)(1)(iii) according to emissions limitations and work practice standards in this section that apply to your affected surface impoundments.

(b) For each affected surface impoundment, you must install and

operate air pollution controls that meet either of the options in paragraphs (b)(1) or (2) of this section.

(1) Install and operate a floating membrane cover according to the requirements in § 63.942; or

(2) Install and operate a cover vented through a closed vent system to a control device according to the requirements in § 63.943. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(c) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your surface impoundments. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

**§ 63.7906 How do I demonstrate initial compliance with the emissions limitations or work practice standards for surface impoundments?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7905 that apply to your affected surface impoundments by meeting the requirements in paragraphs (b) and (c) of this section, as applicable to your surface impoundments.

(b) You must demonstrate initial compliance of each surface impoundment using a floating membrane cover according to § 63.7905(b)(1) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) through (3) of this section.

(1) You have installed a floating membrane cover and closure devices that meet the requirements in § 63.942(b), and you have records documenting the design and installation.

(2) You will operate the cover and closure devices according to the requirements in § 63.942(c).

(3) You have performed an initial visual inspection of each surface impoundment and closure devices according to the requirements in § 63.946(a), and you have records documenting the inspection results.

(c) You must demonstrate initial compliance of each surface impoundment using a cover vented to a control device according to § 63.7905(b)(2) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the

requirements in paragraphs (c)(1) through (4) of this section.

(1) You have installed a cover and closure devices that meet the requirements in § 63.943(b), and have records documenting the design and installation.

(2) You will operate the cover and closure devices according to the requirements in § 63.943(c).

(3) You have performed an initial visual inspection of each cover and closure devices according to the requirements in § 63.946(b), and have records documenting the inspection results.

(4) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

**§ 63.7907 What are my inspection and monitoring requirements for surface impoundments?**

(a) If you use a floating membrane cover according to § 63.7905(b)(1), you must visually inspect the floating membrane cover and its closure devices at least annually according to the requirements in § 63.946(a).

(b) If you use a cover vented to a control device according to § 63.7905(b)(2), you must meet requirements in paragraphs (b)(1) and (2) of this section.

(1) You must visually inspect the cover and its closure devices for defects according to the requirements in § 63.946(b).

(2) You must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

**§ 63.7908 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for surface impoundments?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7905 applicable to your affected surface impoundments by meeting the requirements in paragraphs (b) and (c) of this section as applicable to your surface impoundments.

(b) You must demonstrate continuous compliance for each surface impoundment using a floating membrane cover according to § 63.7905(b)(1) by meeting the requirements in paragraphs (b)(1) through (5) of this section.

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in § 63.942(c).

(2) Visually inspecting the floating membrane cover and closure devices for defects at least annually according to the requirements in § 63.946(a).

(3) Repairing defects according to the requirements in § 63.946(c).

(4) Recording the information specified in § 63.947(a)(2) and (a)(3).

(5) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

(c) You must demonstrate continuous compliance for each surface impoundment using a cover vented to a control device according to § 63.7905(b)(2) by meeting the requirements in paragraphs (c)(1) through (6) of this section.

(1) Operating and maintaining the cover and its closure devices according to the requirements in § 63.943(c).

(2) Visually inspecting the cover and its closure devices for defects at least annually according to the requirements in § 63.946(b).

(3) Repairing defects according to the requirements in § 63.946(c).

(4) Recording the information specified in § 63.947(a)(2) and (a)(3).

(5) Meeting each applicable requirement for demonstrating continuous compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7928.

(6) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

**Separators**

**§ 63.7910 What emissions limitations and work practice standards must I meet for separators?**

(a) You must control HAP emissions from each new and existing oil-water separator and organic-water separator subject to § 63.7886(b)(1)(iv) according to emissions limitations and work practice standards in this section that apply to your affected separators.

(b) For each affected separator, you must install and operate air pollution controls that meet one of the options in paragraphs (b)(1) through (3) of this section.

(1) Install and operate a floating roof according to the requirements in § 63.1043. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, you must comply with the requirements specified in paragraph (b)(2) of this section.

(2) Install and operate a fixed roof vented through a closed vent system to a control device according to the requirements in § 63.1044. You must

meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(3) Install and operate a pressurized separator according to the requirements in § 63.1045.

(c) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your separators. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

**§ 63.7911 How do I demonstrate initial compliance with the emissions limitations and work practice standards for separators?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7910 that apply to your affected separators by meeting the requirements in paragraphs (b) through (d) of this section, as applicable to your separators.

(b) You must demonstrate initial compliance of each separator using a floating roof according to § 63.7910(b)(1) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) through (4) of this section.

(1) You have installed a floating roof and closure devices that meet the requirements in § 63.1043(b), and you have records documenting the design and installation.

(2) You will operate the floating roof and closure devices according to the requirements in § 63.1043(c).

(3) You have performed an initial seal gap measurement inspection using the procedures in § 63.1046(b), and you have records documenting the measurement results.

(4) You have performed an initial visual inspection of the floating roof and closure devices for defects according to the requirements in § 63.1047(b)(2), and you have records documenting the inspection results.

(5) For any portions of the separator using a fixed roof vented to a control device according to § 63.7910(b)(1), you have met the requirements in paragraphs (c)(1) through (4) of this section.

(c) You must demonstrate initial compliance of each separator using a fixed roof vented to a control device according to § 63.7910(b)(2) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you

have met the requirements in paragraphs (c)(1) through (4) of this section.

(1) You have installed a fixed roof and closure devices that meet the requirements in § 63.1042(b), and you have records documenting the design and installation.

(2) You will operate the fixed roof and its closure devices according to the requirements in § 63.1042(c).

(3) You have performed an initial visual inspection of the fixed roof and closure devices for defects according to the requirements in § 63.1047(a).

(4) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

(d) You must demonstrate initial compliance of each pressurized separator that operates as a closed system according to § 63.7910(b)(3) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (d)(1) and (2) of this section.

(1) You have installed a pressurized separator that operates as a closed system according to the requirements in § 63.1045(b)(1) and (b)(2), and you have records of the design and installation.

(2) You will operate the pressurized separator as a closed system according to the requirements in § 63.1045(b)(3).

**§ 63.7912 What are my inspection and monitoring requirements for separators?**

(a) If you use a floating roof according to § 63.7910(b)(1), you must meet requirements in paragraphs (a)(1) and (2) of this section.

(1) Measure the seal gaps at least annually according to the requirements in § 63.1047(b)(1).

(2) Visually inspect the floating roof at least annually according to the requirements in § 63.1047(b)(2).

(b) If you use a cover vented to a control device according to § 63.7910(b)(1) or (2), you must meet requirements in paragraphs (b)(1) and (2) of this section.

(1) You must visually inspect the cover and its closure devices for defects according to the requirements in § 63.1047(c).

(2) You must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

(c) If you use a pressurized separator that operates as a closed system according to § 63.7910(b)(3), you must visually inspect each pressurized

separator and closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.1045(b).

**§ 63.7913 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for separators?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7910 applicable to your affected separators by meeting the requirements in paragraphs (b) through (d) of this section as applicable to your surface impoundments.

(b) You must demonstrate continuous compliance for each separator using a floating roof according to § 63.7910(b)(1) by meeting the requirements in paragraphs (b)(1) through (6) of this section.

(1) Operating and maintaining the floating roof according to the requirements in § 63.1043(b).

(2) Performing seal gap measurement inspections at least annually according to the requirements in § 63.1047(b)(1).

(3) Visually inspecting the floating roof at least annually according to the requirements in § 63.1047(b)(2).

(4) Repairing defects according to the requirements in § 63.1047(d).

(5) Recording the information specified in § 63.1048(a) and (b).

(6) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

(c) You must demonstrate continuous compliance for each separator using a cover vented to a control device according to § 63.7905(b)(1) or (2) by meeting the requirements in paragraphs (c)(1) through (6) of this section.

(1) Operating and maintaining the fixed roof and its closure devices according to the requirements in § 63.1042.

(2) Performing visual inspections of the fixed roof and its closure devices for defects at least annually according to the requirements in § 63.1047(a).

(3) Repairing defects according to the requirements in § 63.1047(d).

(4) Recording the information specified in § 63.1048(a).

(5) Meeting each applicable requirement for demonstrating continuous compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7928.

(6) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(d) You must demonstrate continuous compliance for each pressurized

separator operated as a closed system according to § 63.7910(b)(3) by meeting the requirements in paragraphs (d)(1) and (2) of this section.

(1) Operating the pressurized separator at all times according to the requirements in § 63.1045.

(2) Visually inspecting each pressurized tank and closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.1045(b), and recording the results of each inspection.

### Transfer Systems

#### § 63.7915 What emissions limitations and work practice standards must I meet for transfer systems?

(a) You must control HAP emissions from each new and existing transfer system subject to § 63.7886(b)(1)(v) according to emissions limitations and work practice standards in this section that apply to your affected transfer systems.

(b) For each affected transfer system that is an individual drain system as defined in § 63.7957, you must install and operate controls according to the requirements in § 63.962.

(c) For each affected transfer system that is not an individual drain system as defined in § 63.7957, you must use one of the transfer systems specified in paragraphs (c)(1) through (3) of this section.

(1) A transfer system that uses covers according to the requirements in § 63.689(d).

(2) A transfer system that consists of continuous hard-piping. All joints or seams between the pipe sections shall be permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed flange).

(3) A transfer system that is enclosed and vented through a closed vent system to a control device according to the requirements specified in paragraphs (c)(3)(i) and (ii) of this section.

(i) The transfer system is designed and operated such that an internal pressure in the vapor headspace in the enclosure is maintained at a level less than atmospheric pressure when the control device is operating, and

(ii) The closed vent system and control device are designed and operated to meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(d) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your transfer systems. If you request for

permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

#### § 63.7916 How do I demonstrate initial compliance with the emissions limitations and work practice standards for transfer systems?

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7915 that apply to your affected transfer systems by meeting the requirements in paragraphs (b) through (e) of this section, as applicable to your transfer systems.

(b) You must demonstrate initial compliance of each individual drain system using controls according to § 63.7915(b) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) through (3) of this section.

(1) You have installed air emission controls for each individual drain system and junction box according to the requirements in § 63.962(a) and (b), and you have records documenting the installation and design.

(2) You will operate the air emission controls according to the requirements in § 63.962(b)(5).

(3) You have performed an initial visual inspection of each individual drain system according to the requirements in § 63.964(a), and you have records documenting the inspection results.

(c) You must demonstrate initial compliance of each transfer system using covers according to § 63.7915(c)(1) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(1) through (3) of this section.

(1) Each transfer system is equipped with covers and closure devices according to the requirements in § 63.689(d)(1) through (4), and you have records documenting the design and installation.

(2) You have performed an initial inspection of each cover and its closure devices for defects according to the requirements in § 63.695(d)(1) through (5), and you have records documenting the inspection results.

(3) You will operate each cover and its closure devices according to the requirements in § 63.689(5).

(d) You must demonstrate initial compliance of each transfer system that consists of hard piping according to § 63.7915(c)(2) if you have submitted as

part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (d)(1) and (2) of this section.

(1) You have installed a transfer system that consists entirely of hard piping and meets the requirements in § 63.7915(c)(2), and you have records documenting the design and installation.

(2) You have performed an initial inspection of the entire transfer system to verify that all joints or seams between the pipe sections are permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed flange), and you have records documenting the inspection results.

(e) You must demonstrate initial compliance of each transfer system that is enclosed and vented to a control device according to § 63.7915(e)(3) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (e)(1) and (2) of this section.

(1) You have installed a transfer system that is designed and operated such that an internal pressure in the vapor headspace in the enclosure is maintained at a level less than atmospheric pressure when the control device is operating, and you have records documenting the design and installation.

(2) You have met each applicable requirement for demonstrating initial compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7926.

#### § 63.7917 What are my inspection and monitoring requirements for transfer systems?

(a) If you operate an individual drain system as a transfer system according to § 63.7915(b), you must visually inspect each individual drain system at least annually according to the requirements in § 63.964(a).

(b) If you operate a transfer system using covers according to § 63.7915(c)(1), you must inspect each cover and its closure devices for defects according to the requirements in § 63.695(d)(1) through (5).

(c) If you operate a transfer system consisting of hard piping according to § 63.7915(c)(2), you must annually inspect the entire pipeline and all joints for leaks and other defects. In the event that a defect is detected, you must repair the leak or defect according to the



requirements of paragraph (e) of this section.

(d) If you operate a transfer system that is enclosed and vented to a control device according to § 63.7915(c)(3), you must meet requirements in paragraphs (d)(1) and (2) of this section.

(1) You must annually inspect all enclosure components (e.g., enclosure sections, closure devices, fans) for defects that would prevent an internal pressure in the vapor headspace in the enclosure from continuously being maintained at a level less than atmospheric pressure when the control device is operating. In the event that a defect is detected, you must repair the defect according to the requirements of paragraph (e) of this section.

(2) You must monitor and inspect the closed vent system and control device according to the requirements in § 63.7927 that apply to you.

(e) If you are subject to paragraph (c) or (d) of this section, you must repair all detected defects as specified in paragraphs (e)(1) through (3) of this section.

(1) You must make first efforts at repair of the defect no later than 5 calendar days after detection and repair shall be completed as soon as possible but no later than 45 calendar days after detection except as provided in paragraph (e)(2) of this section.

(2) Repair of a defect may be delayed beyond 45 calendar days if you determine that repair of the defect requires emptying or temporary removal from service of the transfer system and no alternative transfer system is available at the site to accept the material normally handled by the system. In this case, you must repair the defect the next time the process or unit that is generating the material handled by the transfer system stops operation. Repair of the defect must be completed before the process or unit resumes operation.

(3) You must maintain a record of the defect repair according to the requirements specified in § 63.7952.

**§ 63.7918 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for transfer systems?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7915 applicable to your affected transfer system by meeting the requirements in paragraphs (b) through (e) of this section as applicable to your transfer systems.

(b) You must demonstrate continuous compliance for each individual drain system using controls according to

§ 63.7915(b) by meeting the requirements in paragraphs (b)(1) through (5) of this section.

(1) Operating and maintaining the air emission controls for individual drain systems according to the requirements in § 63.962.

(2) Visually inspecting each individual drain system at least annually according to the requirements in § 63.964(a).

(3) Repairing defects according to the requirements in § 63.964(b).

(4) Recording the information specified in § 63.965(a).

(5) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(c) You must demonstrate continuous compliance for each transfer system using covers according to § 63.7915(c)(1) by meeting the requirements in paragraphs (c)(1) through (4) of this section.

(1) Operating and maintaining each cover and its closure devices according to the requirements in § 63.689(d)(1) through (5).

(2) Performing inspections of each cover and its closure devices for defects at least annually according to the requirements in § 63.695(d)(1) through (5).

(3) Repairing defects according to the requirements in § 63.695(5)

(4) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(d) You must demonstrate continuous compliance for each transfer system that consists of hard piping according to § 63.7915(c)(2) by meeting the requirements in paragraphs (d)(1) through (4) of this section.

(1) Operating and maintaining the pipeline to ensure that all joints or seams between the pipe sections remain permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed flange).

(2) Inspecting the pipeline for defects at least annually according to the requirements in § 63.7918(c).

(3) Repairing defects according to the requirements in § 63.7918(e).

(4) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(e) You must demonstrate continuous compliance for each transfer system that is enclosed and vented to a control device according to § 63.7915(e)(3) by meeting the requirements in paragraphs (e)(1) through (5) of this section.

(1) Operating and maintaining the enclosure to ensure that the internal

pressure in the vapor headspace in the enclosure is maintained continuously at a level less than atmospheric pressure when the control device is operating.

(2) Inspecting the enclosure and its closure devices for defects at least annually according to the requirements in § 63.7918(d).

(3) Repairing defects according to the requirements in § 63.7918(e).

(4) Meeting each applicable requirement for demonstrating continuous compliance with the emission limitations and work practice standards for a closed vent system and control device in § 63.7928.

(5) Keeping records to document compliance with the requirements according to the requirements in § 63.7952.

**Equipment Leaks**

**§ 63.7920 What emissions limitations and work practice standards must I meet for equipment leaks?**

(a) You must control HAP emissions from each new and existing equipment subject to § 63.7887 according to emissions limitations and work practice standards in this section that apply to your affected equipment.

(b) For your affected equipment, you must meet the requirements in either paragraph (b)(1) or (2) of this section.

(1) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart TT—National Emission Standards for Equipment Leaks—Control Level 1; or

(2) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart UU—National Emission Standards for Equipment Leaks—Control Level 2.

(c) If you use a closed vent system and control device to comply with this section, as an alternative to meeting the standards in § 63.1015 or § 63.1034 for closed vent systems and control devices, you may elect to meet the requirements in §§ 63.7925 through 63.7928 that apply to your closed vent system and control device.

(d) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your equipment. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

**§ 63.7921 How do I demonstrate initial compliance with the emissions limitations and work practice standards for equipment leaks?**

(a) You must demonstrate initial compliance with the emissions

limitations and work practice standards in § 63.7920 that apply to your affected equipment by meeting the requirements in paragraphs (b) and (c) of this section, as applicable to your affected sources.

(b) If you control equipment leaks according to the requirements under § 63.7920(b)(1), you must demonstrate initial compliance if you have met the requirements in paragraphs (b)(1) and (2) of this section.

(1) You include the information required in § 63.1018(a)(1) in your notification of compliance status report.

(2) You have submitted as part of your notification of compliance status a signed statement that:

(i) You will meet the requirements in §§ 63.1002 through 63.1016 that apply to your affected equipment.

(ii) You have identified the equipment subject to control according to the requirements in § 63.1003, including equipment designated as unsafe to monitor, and have records supporting the determinations with a written plan for monitoring the equipment according to the requirements in § 63.1003(c)(4).

(c) If you control equipment leaks according to the requirements under § 63.7920(b)(2), you must demonstrate initial compliance if you have met the requirements in paragraphs (c)(1) and (2) of this section.

(1) You have included the information required in § 63.1039(a) in your notification of compliance status report.

(2) You have submitted as part of your notification of compliance status a signed statement that:

(i) You will meet the requirements in §§ 63.1021 through 63.1037 that apply to your affected equipment.

(ii) You have identified the equipment subject to control according to the requirements in § 63.1022, including equipment designated as unsafe to monitor, and have records supporting the determinations with a written plan for monitoring the equipment according to the requirements in § 63.1022(c)(4).

**§ 63.7922 How do I demonstrate continuous compliance with the work practice standards for equipment leaks?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7920 applicable to your affected equipment by meeting the requirements in paragraphs (b) through (d) of this section that apply to you.

(b) If you control equipment leaks according to the requirements under § 63.7920(b)(1), you must demonstrate continuous compliance by inspecting, monitoring, repairing, and maintaining records according to the requirements in §§ 63.1002 through 63.1018 that apply to your affected equipment.

(c) If you control equipment leaks according to the requirements under § 63.7920(b)(2), you must demonstrate continuous compliance by inspecting, monitoring, repairing, and maintaining records according to the requirements in §§ 63.1021 through 63.1039 that apply to your affected equipment.

(d) You must keep records to demonstrate compliance with the requirements according to the requirements in § 63.7952.

**Closed Vent Systems and Control Devices**

**§ 63.7925 What emissions limitations and work practice standards must I meet for closed vent systems and control devices?**

(a) For each closed-vent system and control device you use to comply with requirements in §§ 63.7890 through 63.7922, as applicable to your affected sources, you must meet the emissions limitations and work practice standards in this section.

(b) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating except at those times listed in either paragraph (b)(1) or (2) of this section.

(1) The control device may be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the emission point vented to the control device is shutdown. On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance must not exceed 240 hours per each calendar year.

(2) The control device may be bypassed for the purpose of correcting a malfunction of the closed-vent system or control device. You must perform the adjustments or repairs necessary to correct the malfunction as soon as practicable after the malfunction is detected.

(c) For each closed vent system, you must meet the work practice standards in § 63.693(c).

(d) For each control device other than a flare or a control device used to comply with the facility-wide process vent emission limits in § 63.7890(b), you must control HAP emissions to meet either of the emissions limits in paragraphs (d)(1) or (2) of this section except as provided for in paragraph (f) of this section.

(1) Reduce emissions of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from each

control device by 95 percent by weight; or

(2) Limit the concentration of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from each combustion control device (a thermal incinerator, catalytic incinerator, boiler, or process heater) to 20 ppmv or less on a dry basis corrected to 3 percent oxygen.

(e) If you use a flare for your control device, then you must meet the requirements for flares in § 63.11(b).

(f) If you use a process heater or boiler for your control device, then as alternative to meeting the emissions limits in paragraph (d) of this section you may choose to comply with one of the work practice standards in paragraphs (f)(1) through (3) of this section.

(1) Introduce the vent stream into the flame zone of the boiler or process heater and maintain the conditions in the combustion chamber at a residence time of 0.5 seconds or longer and at a temperature of 760°C or higher; or

(2) Introduce the vent stream with the fuel that provides the predominate heat input to the boiler or process heater (*i.e.*, the primary fuel); or

(3) Introduce the vent stream to a boiler or process heater for which you either have been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(g) For each control device other than a flare, you must meet each operating limit in paragraphs (g)(1) through (6) of this section that applies to your control device.

(1) If you use a regenerable carbon adsorption system, you must:

(i) Maintain the hourly average total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the stream mass flow established in the design evaluation or performance test.

(ii) Maintain the hourly average temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the temperature established during the design evaluation or performance test.

(iii) Maintain the hourly average temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the temperature established during the design evaluation.

(iv) Maintain the frequency of regeneration greater than or equal to the

frequency established during the design evaluation.

(2) If you use a nonregenerable carbon adsorption system, you must maintain the hourly average temperature of the adsorption bed less than or equal to the temperature established during the design evaluation or performance test.

(3) If you use a condenser, you must maintain the daily average condenser exit temperature less than or equal to the temperature established during the design evaluation or performance test.

(4) If you use a thermal incinerator, you must maintain the daily average firebox temperature greater than or equal to the temperature established in the design evaluation or during the performance test.

(5) If you use a catalytic incinerator, you must maintain the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the performance test or design evaluation.

(6) If you use a boiler or process heater to comply with an emission limit in paragraph (d) of this section, you must maintain the daily average firebox temperature within the operating level established during the design evaluation or performance test.

(h) If you use a carbon adsorption system as your control, you must meet each work practice standard in paragraphs (h)(1) through (3) of this section that applies to your control device.

(1) If you use a regenerable carbon adsorption system, you must:

(i) Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation.

(ii) Follow the disposal requirements for spent carbon in § 63.693(d)(4).

(2) If you use a nonregenerable carbon adsorption system, you must:

(i) Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation.

(ii) Meet the disposal requirements for spent carbon in § 63.693(d)(4)(ii).

(3) If you use a nonregenerative carbon adsorption system, you may choose to comply with the requirements in paragraphs (h)(3)(i) and (ii) of this section as an alternative to the

requirements in paragraph (h)(2) of this section. You must:

(i) Immediately replace the carbon canister or carbon in the control device when the monitoring device indicates breakthrough has occurred according to the requirements in § 63.693(d)(4)(iii)(A), or replace the carbon canister or carbon in the control device at regular intervals according to the requirements in § 63.693(d)(4)(iii)(B).

(ii) Follow the disposal requirements for spent carbon in § 63.693(d)(4)(ii).

(i) If you use a catalytic incinerator, you must replace the existing catalyst bed with a bed that meets the replacement specifications before the age of the bed exceeds the maximum allowable age established in the design evaluation or during the performance test.

(j) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section that apply to your closed vent systems and control devices. If you request for permission to use an alternative to the work practice standards, you must submit the information described in § 63.6(g)(2).

**§ 63.7926 How do I demonstrate initial compliance with the emission limitations and work practice standards for closed vent systems and control devices?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in this subpart applicable to your closed vent system and control device by meeting the requirements in paragraphs (b) through (h) of this section that apply to your closed vent system and control device.

(b) You must demonstrate initial compliance with the closed vent system work practice standards in § 63.7925(c) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(1) and (2) of this section.

(1) You have installed a closed vent system that meets the requirements in § 63.695(c)(1) and (2), and you have records documenting the equipment design and installation.

(2) You have performed the initial inspection of the closed vent system according to the requirements in § 63.695(c)(1)(i) or (ii), and you have records documenting the inspection results.

(c) You must demonstrate initial compliance of each control device subject to the emissions limits in § 63.7925(d) with the applicable

emissions limit in § 63.7925(d) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(1) and (2) of this section that apply to you.

(1) For the emissions limit in § 63.7925(d)(1), the emissions of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from the control device, measured or determined according to the procedures for performance tests and design evaluations in § 63.7941, are reduced by at least 95 percent by weight.

(2) For the emissions limit in § 63.7925(d)(2), the concentration of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from the combustion control device, measured by a performance test or determined by a design evaluation according to the procedures in § 63.7941, do not exceed 20 ppmv on a dry basis corrected to 3 percent oxygen.

(d) You must demonstrate initial compliance of each control device subject to operating limits in § 63.7925(g) with the applicable limits if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (d)(1) and (2) of this section.

(1) You have established an appropriate operating limit(s) for each of the operating parameter applicable to your control device as specified in § 63.7925(g)(1) through (6).

(2) You have a record of the applicable operating parameter data during the performance test or design evaluation during which the emissions met the applicable limit.

(e) You must demonstrate initial compliance with the spent carbon replacement and disposal work practice standards for carbon adsorption systems in § 63.7925(h) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you will comply with each work practice standard that applies to your carbon adsorption system.

(f) You must demonstrate initial compliance with the catalyst replacement work practice standards for catalytic incinerators in § 63.7925(i) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you will comply with the specified work practice standard.

(g) You must demonstrate initial compliance of each flare with the work practice standards in § 63.7925(e) if you have submitted as part of your

notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (g)(1) through (3) of this section.

(1) Each flare meets the requirements in § 63.11(b).

(2) You have performed a visible emissions test, determined the net heating value of gas being combusted, and determined the flare exit velocity as required in § 63.693(h)(2).

(3) You will operate each flare according to the requirements in § 63.11(b).

(h) You must demonstrate initial compliance of each boiler or process heater with the work practice standards in § 63.7925(f) if you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (h)(1) through (3) of this section.

(1) For the work practice standards in § 63.7925(f)(1), you have records documenting that the boiler or process heater is designed to operate at a residence time of 0.5 seconds or greater and maintain the combustion zone temperature at 760°C or greater.

(2) For the work practice standard in § 63.7925(f)(2), you have records documenting that the vent stream is introduced with the fuel according to the requirements in § 63.693(g)(1)(iv), or that the vent stream is introduced to a boiler or process heater that meets the requirements in § 63.693(g)(1)(v).

(3) For the work practice standard in § 63.7925(f)(3), you have records documenting you either have been issued a final permit under 40 CFR part 270 and your boiler or process heater complies with the requirements of 40 CFR part 266, subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces; or has been certified in compliance with the interim status requirements of 40 CFR part 266, subpart H.

**§ 63.7927 What are my inspection and monitoring requirements for closed vent systems and control devices?**

(a) You must comply with the requirements in paragraphs (a)(1) and (2) of this section for each closed vent system.

(1) You must monitor and inspect each closed vent system according to the requirements in either paragraph (a)(1)(i) or (ii) of this section.

(i) You must monitor, inspect, and repair defects according to the requirements in § 63.695(c)(1)(ii) through (c)(3); or

(ii) You must monitor and inspect the closed vent system according to the

requirements in § 63.172(f) through (j) and record the information in § 63.181.

(2) If your closed vent system includes a bypass device, you must meet the requirements in either paragraph (a)(2)(i) or (ii) of this section.

(i) Use a flow indicator to determine if the presence of flow according to the requirements in § 63.693(c)(2)(i); or

(ii) Use a seal or locking device and make monthly inspections as required by § 63.693(c)(2)(ii).

(b) If you use a regenerable carbon adsorption system, you must meet the requirements in paragraphs (b)(1) through (3) of this section.

(1) Use a continuous parameter monitoring system (CPMS) to measure and record the hourly average total regeneration stream mass flow during each carbon adsorption cycle.

(2) Use a CPMS to measure and record the hourly average temperature of the adsorption bed during regeneration (except during the cooling cycle).

(3) Use a CPMS to measure and record the hourly average temperature of the adsorption bed after regeneration (and within 15 minutes of after completing any cooling cycle).

(c) If you use a nonregenerable carbon adsorption system, you must use a CPMS to measure and record the hourly average temperature of the adsorption bed or you must monitor the concentration of organic compounds in the exhaust vent stream according to the requirements in § 63.693(d)(4)(iii)(A).

(d) If you use a condenser, you must use a CPMS to measure and record the hourly average condenser exit temperature and determine and record the daily average condenser exit temperature.

(e) If you use a thermal incinerator, you must use a CPMS to measure and record the hourly average firebox temperature and determine and record the daily average firebox temperature.

(f) If you use a catalytic incinerator, you must use a CPMS with two temperature sensors to measure and record the hourly average temperature at the inlet of the catalyst bed, the hourly average temperature at the outlet of the catalyst bed, the hourly average temperature difference across the catalyst bed, and to determine and record the daily average temperature difference across the catalyst bed.

(g) If you use a boiler or process heater to meet an emission limitation, you must use a CPMS to measure and record the hourly average firebox temperature and determine and record the daily average firebox temperature.

(h) If you use a flare, you must monitor the operation of the flare using a heat sensing monitoring device

according to the requirements in § 63.693(h)(3).

(i) If you introduce the vent stream into the flame zone of a boiler or process heater according to the requirements in § 63.7925(f)(1), you must use a CPMS to measure and record the combustion zone temperature.

**§ 63.7928 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for closed vent systems and control devices?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in this subpart applicable to your closed vent system and control device by meeting the requirements in paragraphs (b) through (j) of this section as applicable to your closed vent system and control device.

(b) You must demonstrate continuous compliance with the closed vent system work practice standards in § 63.7925(c) by meeting the requirements in paragraphs (b)(1) through (7) of this section.

(1) For a closed vent system designed to operate with no detectable organic emissions, visually inspecting the closed vent system at least annually, monitoring after a repair or replacement using the procedures in § 63.694(k), and monitoring at least annually according to the requirements in § 63.695(c)(1)(ii).

(2) For a closed vent system designed to operate below atmospheric pressure, visually inspecting the closed vent system at least annually according to the requirements in § 63.695(c)(2)(ii).

(3) Repairing defects according to the requirements in § 63.695(c)(3).

(4) Keeping records of each inspection that include the information in paragraphs (b)(4)(i) through (iii) of this section:

(i) A closed vent system identification number (or other unique identification description you select).

(ii) Date of each inspection.

(iii) If a defect is detected during an inspection, the location of the defect, a description of the defect, the date of detection, the corrective action taken to repair the defect, and if repair is delayed, the reason for any delay and the date completion of the repair is expected.

(5) If you elect to monitor the closed vent system according to the requirements in § 63.172(f) through (j), recording the information in § 63.181.

(6) If the closed vent system is equipped with a flow indicator, recording the information in § 63.693(c)(ii)(i).

(7) If the closed vent system is equipped with a seal or locking device,

visually inspecting the seal or closure mechanism at least monthly according to the requirements in § 63.693(c)(ii)(i), and recording the results of each inspection.

(c) You must demonstrate continuous compliance of each control device subject to the emissions limits in § 63.7925(d) with the applicable emissions limit in § 63.7925(d) by meeting the requirements in paragraphs (c)(1) and (2) of this section.

(1) For the emission limit in § 63.7925(d)(1), maintaining the reduction in emissions of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from the control device at 95 percent by weight or greater.

(2) For the emission limit in § 63.7925(d)(2), maintaining the concentration of total HAP listed in Table 1 of this subpart or TOC (minus methane and ethane) from the control device at 20 ppmv or less.

(d) You must demonstrate continuous compliance of each control device subject to operating limits in § 63.7925(g) with the applicable limits by meeting the requirements in paragraphs (d)(1) through (4) of this section.

(1) Maintaining each operating limit according to the requirements in § 63.7925(g) as applicable to the control device.

(2) Monitoring and inspecting each control device according to the requirements in § 63.7927(b) through (i) as applicable to the control device.

(3) Operating and maintaining each continuous monitoring system according to the requirements in § 63.7945, and collecting and reducing data according to the requirements in § 63.7946.

(4) Keeping records to document compliance with the requirements of this subpart according to the requirements in § 63.7952.

(e) You must demonstrate continuous compliance with the spent carbon replacement and disposal work practice standards for regenerable carbon adsorption systems in § 63.7925(h)(1) by meeting the requirements in paragraphs (e)(1) through (3) of this section.

(1) Replacing the adsorbent as required by § 63.7925(h)(1)(i).

(2) Following the disposal requirements for spent carbon in § 63.693(d)(4)(ii).

(3) Keeping records to document compliance with the requirements of the work practice standards.

(f) You must demonstrate continuous compliance with the spent carbon replacement and disposal work practice standards for nonregenerable carbon

adsorption systems in § 63.7925(h)(2) by meeting the requirements in paragraphs (f)(1) through (3) of this section.

(1) Replacing the adsorbent as required by the work practice standard in § 63.7925(h)(2)(i).

(2) Following the disposal requirements for spent carbon in § 63.693(d)(4)(ii).

(3) Keeping records to document compliance with the requirements of the work practice standards.

(g) You must demonstrate continuous compliance with the spent carbon replacement and disposal work practice standards for nonregenerable carbon adsorption systems in § 63.7925(h)(3) by meeting the requirements in paragraphs (g)(1) through (3) of this section.

(1) Monitoring the concentration level of the organic compounds in the exhaust vent for the carbon adsorption system as required in § 63.7927(c), immediately replacing the carbon canister or carbon in the control device when breakthrough is indicated by the monitoring device, and recording the date of breakthrough and carbon replacement. Or, you must replace the carbon canister or carbon in the control device at regular intervals and record the date of carbon replacement.

(2) Following the disposal requirements for spent carbon in § 63.693(d)(4)(ii).

(3) Keeping records to document compliance with the requirements of the work practice standards.

(h) You must demonstrate continuous compliance with the catalyst replacement work practice standards for catalytic incinerators in § 63.7925(i) by meeting the requirements in paragraphs (h)(1) and (2) of this section.

(1) Replacing the existing catalyst bed as required in § 63.7925(i).

(2) Keeping records to document compliance with the requirements of the work practice standards.

(i) You must demonstrate continuous compliance of each flare with the work practice standards in § 63.7925(e) by meeting the requirements in paragraphs (i)(1) through (5) of this section.

(1) Operating the flare with no visible emissions except for up to 5 minutes in any 2 consecutive hours according to the requirements in § 63.11(b)(4).

(2) Monitoring the presence of a pilot flare according to the requirements in § 63.7927(h) and maintaining a pilot flame and flare flame at all times that emissions are not vented to the flare according to the requirements in § 63.11(b)(5).

(3) Operating the flare with an exit velocity according to the requirements in § 63.11(b)(6) through (8).

(4) Operating the flare with a net heating value of the gas being combusted according to the requirements in § 63.11(b)(6)(ii).

(5) Keeping records to document compliance with the requirements of the work practice standards.

(j) You must demonstrate continuous compliance of each boiler or process heater with the work practice standards in § 63.7925(f) by meeting the requirements in paragraphs (j)(1) through (3) of this section.

(1) For the work practice standards in § 63.7925(f)(1), you must demonstrate continuous compliance by meeting the requirements in paragraphs (j)(1)(i) through (iv).

(i) Maintaining conditions in the combustion chamber at a residence time of 0.5 seconds or longer and at a combustion zone temperature at 760°C or greater whenever the vent stream is introduced to the flame zone of the boiler or process heater.

(ii) Monitoring each boiler or process heater according to the requirements in § 63.7927(i).

(iii) Operating and maintaining each continuous monitoring system according to the requirements in § 63.7945, and collecting and reducing data according to the requirements in § 63.7946.

(iv) Keeping records to document compliance with residence time design requirement.

(2) For the work practice standards in § 63.7925(f)(2), you maintain the boiler or process heater operations such that the vent stream is introduced with the fuel according to the requirements in § 63.693(g)(1)(iv), or that the vent stream is introduced to a boiler or process heater that meets the requirements in § 63.693(g)(1)(v).

(3) For the work practice standard in § 63.7925(f)(3), you remain in compliance with all terms and conditions of the final permit under 40 CFR part 270 and your boiler or process heater complies with the requirements of 40 CFR part 266, subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces; or in compliance with the interim status requirements of 40 CFR part 266, subpart H, as applicable to your boiler or process heater.

### General Compliance Requirements

#### § 63.7935 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emissions limitations (including operating limits) and the work practice standards in this subpart at all times,

except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) During periods of startup, shutdown, and malfunction, you must operate according to the SSMP.

(e) You must report each instance in which you did not meet each emissions limitation and each operating limit that applies to you. This includes periods of startup, shutdown, and malfunction. You must also report each instance in which you did not meet the requirements for work practice standards that apply to you. These instances are deviations from the emissions limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.7951.

(f) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating according to the SSMP. We will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(g) For each monitoring system required in this section, you must develop and make available for inspection by the permitting authority, upon request, a site-specific monitoring plan that addresses the following:

(1) Installation of the continuous monitoring system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(h) In your site-specific monitoring plan, you must also address the following:

(1) Ongoing operation and maintenance procedures according to the general requirements of § 63.8(c)(1), (3), (4)(ii), (7), and (8).

(2) Ongoing data quality assurance procedures according to the general requirements of § 63.8(d).

(3) Ongoing recordkeeping and reporting procedures according to the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(i) You must operate and maintain the continuous monitoring system according to the site-specific monitoring plan.

(j) You must conduct a performance evaluation of each continuous monitoring according to your site-specific monitoring plan.

**§ 63.7936 What requirements must I meet if I transfer remediation material off-site to another facility?**

(a) If you transfer to another facility a remediation material generated by your remediation activities and having an average total VOHAP concentration equal to or greater than 10 ppmw (as determined using the procedures specified in § 63.7943), then you must transfer the remediation material to a facility that meets the requirements in paragraph (b) of this section. You must record the name, street address, and telephone number of the facility where you send this remediation material.

(b) You may elect to transfer the remediation material to one of the following facilities:

(1) A facility where your remediation material will be directly disposed in a landfill or other land disposal unit according to all applicable Federal and State requirements.

(2) A facility subject to 40 CFR part 63, subpart DD where the exemption under § 63.680(b)(2)(iii) is waived and air emissions from the management of your remediation material at the facility are controlled according to all applicable requirements in the subpart for an off-site material. Prior to sending your remediation material, you must obtain a written statement from the owner or operator of the facility to which you send your remediation material acknowledging that the exemption under § 63.680(b)(2)(iii) will be waived for all remediation material received at the facility from you and your material will be managed as an off-site material at the facility according to all applicable requirements. This statement must be signed by the responsible official of the receiving facility, provide the name and address of the receiving facility, and a copy sent to the appropriate EPA Regional Office at the addresses listed in 40 CFR 63.13.

(3) A facility where your remediation material will be managed according to all applicable requirements under this Subpart.

(i) You must prepare and include a notice with each shipment or transport of remediation material from your site. This notice must state that the remediation material contains organic HAP that are to be treated according to the provisions of this subpart. When the transport is continuous or ongoing (for example, discharge to a publicly owned treatment works), the notice must be submitted to the receiving facility owner or operator initially and whenever there is a change in the required treatment.

(ii) You may not transfer the remediation material unless the owner or operator of the facility receiving your remediation material has submitted to the EPA a written certification that he or she will manage remediation material received from you according to the requirements of §§ 63.7885 through 63.7957. The receiving facility owner or operator may revoke the written certification by sending a written statement to the EPA and to you providing at least 90 days notice that they rescind acceptance of responsibility for compliance with the regulatory provisions listed in this section. Upon expiration of the notice period, you may not transfer your remediation material to the facility.

(iii) By providing the written certification to the EPA, the receiving facility owner or operator accepts responsibility for compliance with the regulatory provisions listed in paragraph (b)(3) of this section with respect to any shipment of remediation material covered by the written certification. Failure to abide by any of those provisions with respect to such shipments may result in enforcement action by the EPA against the certifying entity according to the enforcement provisions applicable to violations of these provisions by owners or operators of sources.

(iv) Written certifications and revocation statements to the EPA from the receiving facility owner or operator must be signed by the responsible official of the receiving facility, provide the name and address of the receiving facility, and a copy sent to the appropriate EPA Regional Office at the addresses listed in 40 CFR 63.13. Such written certifications are not transferable.

(c) Acceptance by a facility owner or operator of remediation material from a site remediation subject to this Subpart does not, by itself, require the facility owner or operator to obtain a title V permit under 40 CFR 70.3 or 40 CFR 71.3.

**§ 63.7937 How do I demonstrate initial compliance with the general standards?**

(a) You must demonstrate initial compliance with the general standards in §§ 63.7884 through 63.7887 that apply to your affected sources by meeting the requirements in paragraphs (b) through (d) of this section, as applicable to you.

(b) You must demonstrate initial compliance with the general standards in § 63.7885 that apply to your affected process vents by meeting the requirements in paragraphs (b)(1) through (4) of this section, as applicable to your process vents.

(1) If HAP emissions are controlled from the affected process vents according to the emission limitations and work practice standards specified in § 63.7885(b)(1), you have met the initial compliance requirements in § 63.7891.

(2) If the remediation material treated or managed by the process vented through the affected process vents has an average total VOHAP less than 10 ppmw according to § 63.7885(b)(2), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have determined, according to the procedures § 63.7943, and recorded the average VOHAP concentration of the remediation material placed in the affected remediation material management unit.

(3) If HAP emissions are controlled from the affected process vents to meet standards in another subpart under 40 CFR part 61 or 40 CFR part 63 according to § 63.7885(b)(3), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(3)(i) and (ii) of this section.

(i) You include in your statement the citations for the specific emission limitations and work practice standards that apply to the process vents under the subpart in 40 CFR part 61 or 40 CFR part 63 that the vents are also subject.

(ii) You are complying with all applicable emissions limitations and work practice standards specified by the applicable subpart.

(4) For each process vent exempted according to § 63.7885(c), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (b)(4)(i) and (ii) of this section.

(i) You identify in your statement each process vent that qualifies for an exemption and the exemption conditions in § 63.7885(c)(1)(i) or (ii)

that apply to each exempted process vent.

(ii) You have performed the measurements and prepared the documentation required in § 63.7885(c)(2) that demonstrates that each exempted process vent stream meets the applicable exemption conditions in § 63.7885(c)(1).

(c) You must demonstrate initial compliance with the general standards in § 63.7886 that apply to your affected remediation material management units by meeting the requirements in paragraphs (c)(1) through (6) of this section, as applicable to your remediation material management units.

(1) If the remediation material management unit uses air pollution controls according to the standards specified in § 63.7886(b)(1), you have met the initial compliance requirements applicable to the remediation material management unit in §§ 63.7896, 63.7901, 63.7906, 63.7911, or 63.7816.

(2) If the remediation material managed in the affected remediation material management has an average total VOHAP less than 500 ppmw according to § 63.7886(b)(2), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have determined, according to the procedures § 63.7943, and recorded the average VOHAP concentration of the remediation material placed in the affected remediation material management unit.

(3) If HAP emissions are controlled from the affected remediation material management units to meet standards in another subpart under 40 CFR part 61 or 40 CFR part 63 according to § 63.7886(b)(3), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(3)(i) and (ii) of this section.

(i) You include in your statement the citations for the specific emission limitations and work practice standards that apply to the remediation material management units under the subpart in 40 CFR part 61 or 40 CFR part 63 that the units are also subject.

(ii) You are complying with all applicable emissions limitations and work practice standards specified by the applicable subpart.

(4) If HAP emissions are controlled from the affected remediation material management unit that is an open tank or surface impoundment used for a biological treatment process according to § 63.7886(b)(4), you have submitted as part of your notification of compliance status, specified in

§ 63.7950, a signed statement that you have met the requirements in paragraphs (c)(4)(i) and (ii) of this section.

(i) You have performed the measurements and prepared the documentation required in § 63.7886(b)(4)(i) that demonstrates that each unit meets the applicable performance levels.

(ii) You will monitor the biological treatment process conducted in each unit according to the requirements in § 63.7886(4)(i).

(5) For each remediation material management unit used for cleanup of radioactive mixed waste and exempted according to § 63.7886(c), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(5)(i) and (ii) of this section.

(i) You include in your statement the citations for the specific requirements that apply to the remediation material management units under regulations, directives, and other requirements under the Atomic Energy Act, the Nuclear Waste Policy Act, or the Waste Isolation Pilot Plant Land Withdrawal Act.

(ii) You are complying with all requirements that apply to the remediation material management units under the applicable regulations or directives.

(6) For each remediation material management unit exempted according to § 63.7886(d), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have met the requirements in paragraphs (c)(6)(i) and (ii) of this section.

(i) You have designated according to the requirements in § 63.7886(d)(1) each of the remediation material management units you are selecting to be exempted.

(ii) You have performed an initial determination and prepared the documentation required in § 63.7886(d)(2) that demonstrates that the total annual HAP quantity (based on the HAP listed in Table 1 of this subpart) in the remediation material placed in all of the designated exempted remediation material management units will be less than 1 Mg/yr.

(d) You must demonstrate initial compliance with the general standards in § 63.7887 that apply to your affected equipment leak sources by meeting the requirements in § 63.7921.

**§ 63.7938 How do I demonstrate continuous compliance with the general standards?**

(a) You must demonstrate continuous compliance with the general standards in §§ 63.7884 through 63.7887 that apply to your affected sources by meeting the requirements in paragraphs (b) through (d) of this section, as applicable to you.

(b) You have demonstrated continuous compliance with the general standards in § 63.7885 that apply to your affected process vents by meeting the requirements in paragraphs (b)(1) through (4) of this section, as applicable to your process vents.

(1) If HAP emissions are controlled from the affected process vents according to the emission limitations and work practice standards specified in § 63.7885(b)(1), you must demonstrate continuous compliance by meeting the requirements in § 63.7893.

(2) If the remediation material treated or managed by the process vented through the affected process vents has an average total VOHAP less than 10 ppmw according to § 63.7885(b)(2), you must demonstrate continuous compliance by performing a new determination and preparing new documentation as required in § 63.7886(c)(2) to show that the total VOHAP concentration of the remediation material remains less than 10 ppmw.

(3) If HAP emissions are controlled from the affected process vents to meet standards in another subpart under 40 CFR part 61 or 40 CFR part 63 according to § 63.7885(b)(3), you must demonstrate continuous compliance by complying with all applicable emissions limitations and work practice standards specified by the applicable subpart.

(4) For each process vent exempted according to § 63.7885(c), you must demonstrate continuous compliance by performing new measurements and preparing new documentation as required in § 63.7885(c)(2) that demonstrates that each exempted process vent stream meets the applicable exemption conditions in § 63.7885(c)(1).

(c) You must demonstrate continuous compliance with the general standards in § 63.7886 that apply to your affected remediation material management units by meeting the requirements in paragraphs (c)(1) through (6) of this section, as applicable to your remediation material management units.

(1) If the remediation material management unit uses air pollution controls according to the standards specified in § 63.7886(b)(1), you must

demonstrate continuous compliance by meeting the requirements applicable to the remediation material management unit in §§ 63.7898, 63.7903, 63.7908, 63.7913, or 63.7818.

(2) If the remediation material managed in the affected remediation material management has an average total VOHAP concentration less than 500 ppmw according to § 63.7886(b)(2), you must demonstrate continuous compliance by performing a new determination and preparing new documentation as required in § 63.7886(c)(2) to show that the total VOHAP concentration of the remediation material remains less than 500 ppmw.

(3) If HAP emissions are controlled from the affected remediation material management units to meet standards in another subpart under 40 CFR part 61 or 40 CFR part 63 according to § 63.7886(b)(3), you must demonstrate continuous compliance by meeting all applicable emissions limitations and work practice standards specified by the applicable subpart.

(4) If HAP emissions are controlled from the affected remediation material management unit that is an open tank or surface impoundment used for a biological treatment process according to § 63.7886(b)(4), you must demonstrate continuous compliance by meeting the requirements in paragraphs (c)(4)(i) and (ii) of this section.

(i) Performing new measurements and preparing new documentation as required in § 63.7886(4)(i) that demonstrates that each unit meets the applicable performance levels.

(ii) Monitoring the biological treatment process conducted in each unit according to the requirements in § 63.7886(4)(i).

(5) For each remediation material management unit used for cleanup of radioactive mixed waste and exempted according to § 63.7886(c), you must demonstrate continuous compliance by meeting all requirements that apply to the remediation material management units under the applicable regulations or directives.

(6) For each remediation material management unit exempted according to § 63.7886(d), you must demonstrate continuous compliance by performing new measurements and preparing new documentation as required in § 63.7886(d)(2) to show that the total annual HAP quantity (based on the HAP listed in Table 1 of this subpart) in the remediation material placed in all of the designated exempted remediation material management units remains less than 1 Mg/yr.

(d) You have demonstrated continuous compliance with the general standards in § 63.7887 that apply to your affected equipment leak sources by meeting the requirements in § 63.7923.

**Performance Tests****§ 63.7940 By what date must I conduct performance tests or other initial compliance demonstrations?**

(a) You must conduct a performance test or design evaluation for each existing affected source within 180 calendar days after the compliance date that is specified in § 63.7883.

(b) For each work practice standard that applies to you where initial compliance is not demonstrated using a performance test or design evaluation, you must demonstrate initial compliance within 30 calendar days after the compliance date that is specified in § 63.7883 for your affected source.

(c) For new sources, you must conduct initial performance tests and other initial compliance demonstrations according to the provisions in § 63.7(a)(2)(i) and (ii).

**§ 63.7941 How do I conduct a performance test, design evaluation, or other type of initial compliance demonstration?**

(a) You must conduct a performance test or design evaluation to demonstrate initial compliance for each new or existing affected source that is subject to an emission limit in this subpart. You must report the results of the performance test or design evaluation according to the requirements in § 63.7950(e)(1).

(b) If you choose to conduct a performance test to demonstrate initial compliance, you must conduct the test according to the requirements in § 63.7(e)(1) and paragraphs (b)(1) through (5) of this section.

(1) You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(2) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(3) You must conduct each performance test using the test methods and procedures in § 63.694(l).

(4) Follow the procedures in paragraphs (b)(4)(i) through (iii) of this section to determine compliance with the facility-wide total organic mass emissions rate in § 63.7890(a)(1)(i).

(i) Determine compliance with the total organic mass flow rate using Equation 1 of this section as follows:



$$E_h = (0.0416 \times 10^{-6}) Q_{sd} \sum_{i=1}^n (C_i \times MW_i) \quad (\text{Eq. 1})$$

Where:

$E_h$  = Total organic mass flow rate, kg/h;

$Q_{sd}$  = Volumetric flow rate of gases entering or exiting control device (or exiting the process vent if no control device is used), as determined by Method 2 of 40 CFR part 60, appendix A, dscm/h;

$n$  = Number of organic compounds in the vent gas;

$C_i$  = Organic concentration in ppm, dry basis, of compound  $i$  in the vent gas, as determined by Method 18 of 40 CFR part 60, appendix A;

$MW_i$  = Molecular weight of organic compound  $i$  in the vent gas, kg/kg-mol;

(ii) Determine compliance with the annual total organic emissions rate using Equation 2 of this section as follows:

$$E_A = E_h \times H \quad (\text{Eq. 2})$$

Where:

$E_A$  = Total organic mass emissions rate, kilograms per year;

$E_h$  = Total organic mass flow rate for the process vent, kg/h;

$H$  = Total annual hours of operation for the affected unit, h.

(iii) Determine compliance with the total organic emissions limit from all affected process vents at the facility by summing the total hourly organic mass emissions rates ( $E_h$  as determined in Equation 1 of this section) and summing the total annual organic mass emissions rates ( $E_A$ , as determined in Equation 2 of this section) for all affected process vents at the facility.

(5) Determine compliance with the 95 percent reduction limit in § 63.7890(a)(2)(i) for the combination of all affected process vents at the facility using Equations 3 and 4 of this section to calculate control device inlet and outlet concentrations and Equation 5 of this section to calculate control device emission reductions for process vents as follows:

$$E_i = K_2 \left( \sum_{j=1}^n C_{ij} M_{ij} \right) Q_i \quad (\text{Eq. 3})$$

$$E_o = K_2 \left( \sum_{j=1}^n C_{oj} M_{oj} \right) Q_o \quad (\text{Eq. 4})$$

Where:

$C_{ij}$ ,  $C_{oj}$  = Concentration of sample component  $j$  of the gas stream at the inlet and outlet of the control device, dry basis, parts per million by volume. For uncontrolled vents,  $C_{ij} = C_{oj}$  and equal the concentration exiting the vent;

$E_i$ ,  $E_o$  = Mass rate of total organic compounds (TOC) (minus methane and ethane) or total HAP, from Table 1 of this subpart, at the inlet and outlet of the control device, respectively, dry basis, kilogram per hour. For uncontrolled vents,  $E_i = E_o$  and equal the concentration exiting the vent;

$M_{ij}$ ,  $M_{oj}$  = Molecular weight of sample component  $j$  of the gas stream at the inlet and outlet of the control device, respectively, gram/gram-mole. For uncontrolled vents,  $M_{ij} = M_{oj}$  and equal the gas stream molecular weight exiting the vent;

$Q_i$ ,  $Q_o$  = Flowrate of gas stream at the inlet and outlet of the control device, respectively, dry standard cubic meters per minute (dscm/min). For uncontrolled vents,  $Q_i = Q_o$  and equals the flowrate exiting the vent;

$K_2$  = Constant,  $2.494 \times 10^{-6}$  (parts per million)<sup>-1</sup> (gram-mole per standard cubic meter) (kilogram/gram)(minute/hour, where standard temperature (gram-mole per standard cubic meter) is 20°C);

$n$  = the number of components in the sample.

$$R_v = \frac{\sum_{j=1}^n E_i - \sum_{j=1}^n E_o}{\sum_{j=1}^n E_i} \times 100 \quad (\text{Eq. 5})$$

Where:

$R_v$  = Overall emissions reduction for all affected process vents, percent

$E_i$  = Mass rate of TOC (minus methane and ethane) or total HAP, from Table 1 of this subpart, at the inlet to the control device, or exiting the vent for uncontrolled vents, as calculated in this section, kilograms TOC per hour or kilograms HAP per hour;

$E_o$  = Mass rate of TOC (minus methane and ethane) or total HAP, from Table 1 of this subpart, at the outlet to the control device, or exiting the vent for uncontrolled vents, as calculated in this section, kilograms TOC per hour or kilograms HAP per

hour. For vents without a control device,  $E_o = E_i$ ;

$n$  = number of affected source process vents.

(c) If you use a carbon adsorption system, condenser, vapor incinerator, boiler, or process heater to meet an emission limit in this subpart, you may choose to perform a design evaluation to demonstrate initial compliance instead of a performance test. You must perform a design evaluation according to the general requirements in § 63.693(b)(8) and the specific requirements in § 63.694(d)(2)(ii) for a carbon adsorption system (including establishing carbon replacement schedules and associated requirements), § 63.694(e)(2)(ii) for a condenser, § 63.694(f)(2)(ii) for a vapor incinerator, or § 63.694(g)(2)(i)(B) for a boiler or process heater.

(d) During the performance test or design evaluation, you must collect the appropriate operating parameter monitoring system data, average the operating parameter data over each test run, and set operating limits, whether a minimum or maximum value, based on the average of values for each of the three test runs. If you use a control device design analysis to demonstrate control device performance, then the minimum or maximum operating parameter value must be established based on the control device design analysis and supplemented, as necessary, by the control device manufacturer recommendations or other applicable information.

(e) If you control air emissions from an affected source by introducing the vent stream into the flame zone of a boiler or process heater according to the requirements in § 63.693(g)(1)(iii), you must conduct a performance test or design evaluation to demonstrate that the boiler or process heater meets the applicable emission limit while operating at a residence time of 0.5 seconds or greater and at a combustion zone temperature of 760°C or higher.

(f) You must conduct a performance evaluation for each continuous monitoring system according to the requirements in § 63.8(e).

(g) If you are required to conduct a visual inspection of an affected source, you must conduct the inspection according to the procedures in § 63.906(a)(1) for Tank Level 1 controls, § 63.1063(d) for Tank Level 2 controls, § 63.946(a) for a surface impoundment equipped with a floating membrane

cover, § 63.946(b) for a surface impoundment equipped with a cover and vented to a control device, § 63.1047(a) for a separator with a fixed roof, § 63.1047(c) for a separator equipped with a fixed roof and vented to a control device, § 63.695(c)(1)(i) or (c)(2)(i) for a closed vent system, and § 63.964(a) for individual drain systems.

(h) If you use Container Level 1 controls, you must conduct a test to demonstrate that the container operates with no detectable organic emissions using Method 21 (40 CFR part 60, appendix A) and the procedures in § 63.925(a).

(i) If you use Container Level 2 controls, you must conduct a test to demonstrate that the container operates with no detectable organic emissions or that the container is vapor-tight. You must conduct the test using Method 21 (40 CFR part 60, appendix A) and the procedures in § 63.925(a) to demonstrate that the container operates with no detectable organic emissions or Method 27 (40 CFR part 60, appendix A) and the procedures in § 63.925(b) to demonstrate that the container is vapor-tight.

(j) If you locate an affected source inside a permanent total enclosure that is vented to a control device, you must demonstrate that the enclosure meets the verification criteria in section 5 of Procedure T in 40 CFR 52.741, appendix B.

(k) If you use a fixed roof or a floating roof to control air emissions from a separator, you must conduct a test to demonstrate that the roof operates with no detectable organic emissions using Method 21 (40 CFR part 60, appendix A) and the procedures in § 63.1046(a). If you use a floating roof, you also must measure the seal gaps according to the procedures in § 63.1046(b).

(l) If you use a flare to control air emissions, you must conduct a visible emissions test using Method 22 in 40 CFR part 60, appendix A, and the procedures in § 63.11(b)(4).

(m) For each initial compliance demonstration that requires a performance test or design evaluation, you must report the results in your notification of compliance status according to the requirements in § 63.7950(e)(1). For each initial compliance demonstration that does not require a performance test or design evaluation, you must submit a notification of compliance status according to the requirements in § 63.7950(e)(2).

#### § 63.7942 When must I conduct subsequent performance tests?

For non-flare control devices, you must conduct performance tests at any time the EPA requires you to according to § 63.7(3).

#### § 63.7943 How do I determine the average VOHAP concentration of my remediation material?

(a) General requirements. You must determine the average total VOHAP concentration of a remediation material at the point-of-extraction using either direct measurement as specified in paragraph (b) of this section or by knowledge as specified in paragraph (c) of this section.

(b) Direct measurement. To determine the average total VOHAP concentration of a remediation material at the point-of-extraction using direct measurement, you must use the procedures in paragraphs (b)(1) through (3) of this section.

(1) Sampling. Samples of each material stream must be collected at the point-of-extraction in a manner such that volatilization of organics contained in the sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

(i) The averaging period to be used for determining the average total VOHAP concentration for the material stream on a mass-weighted average basis must be designated and recorded. The averaging period can represent any time interval that you determine is appropriate for the material stream but must not exceed 1 year. For streams that are combined, an averaging period representative for all streams must be selected.

(ii) No less than four samples must be collected to represent the complete range of HAP compositions and HAP quantities that occur in each material stream during the entire averaging period due to normal variations in the material stream(s). Examples of such normal variations are variation of the HAP concentration within a contamination area.

(iii) All samples must be collected and handled according to written procedures you prepare and document in a site sampling plan. This plan must describe the procedure by which representative samples of the material stream(s) are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan must be maintained on site in the facility operating records. An example of an acceptable sampling plan includes a

plan incorporating sample collection and handling procedures according to the guidance found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846 or Method 25D in 40 CFR part 60, appendix A.

(2) Analysis. Each collected sample must be prepared and analyzed according to either one of the methods listed in § 63.694(b)(2)(ii), or any current EPA Contracts Lab Program method (or future revisions) capable of identifying all the HAP in Table 1 of this subpart.

(3) Calculations. The average total VOHAP concentration ( $\bar{C}$ ) on a mass-weighted basis must be calculated by using the results for all samples analyzed according to paragraph (c)(2) of this section and Equation 1 of this section as follows:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i) \quad (\text{Eq. 1})$$

Where:

$\bar{C}$  = Average VOHAP concentration of the material on a mass-weighted basis, ppmw.

$i$  = Individual sample "i" of the material.

$n$  = Total number of samples of the material collected (at least 4 per stream) for the averaging period (not to exceed 1 year).

$Q_i$  = Mass quantity of material stream represented by  $C_i$ , kilograms per hour (kg/hr).

$Q_T$  = Total mass quantity of all material during the averaging period, kg/hr.

$C_i$  = Measured VOHAP concentration of sample "i" as determined according to the requirements of paragraph (a)(3)(ii) of this section, ppmw.

(c) Knowledge of the material. To determine the average total VOHAP concentration of a remediation material at the point-of-extraction using knowledge, you must use the procedures in paragraphs (c)(1) through (3) of this section.

(1) Documentation must be prepared that presents the information used as the basis for your knowledge of the material stream's average VOHAP concentration. Examples of information that may be used as the basis for knowledge include: material balances for the source(s) generating each material stream; species-specific chemical test data for the material stream from previous testing that are still applicable to the current material stream; test data for material from the contamination area(s) being remediated.

(2) If test data are used as the basis for knowledge, then you must document

the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VOHAP concentration. For example, you may use HAP concentration test data for the material stream that are validated according to Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the material. This information must be provided for each material stream where streams are combined.

(3) If you use species-specific chemical concentration test data as the basis for knowledge of the material, you may adjust the test data to the corresponding average VOHAP concentration value which would be obtained had the material samples been analyzed using Method 305. To adjust these data, the measured concentration for each individual HAP chemical species contained in the material is multiplied by the appropriate species-specific adjustment factor ( $f_{m305}$ ) listed in Table 1 of this subpart.

(d) In the event that you and us disagree on a determination using knowledge of the average total VOHAP concentration for a remediation material, then the results from a determination of VOHAP concentration using direct measurement by Method 305 in 40 CFR part 60 appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or request that you perform this determination using direct measurement.

**§ 63.7944 How do I determine the maximum HAP vapor pressure of my remediation material?**

(a) You must determine the maximum HAP vapor pressure of your remediation material using either direct measurement as specified in paragraph (b) of this section or by knowledge as specified in paragraph (c) of this section.

(b) Direct measurement to determine the maximum HAP vapor pressure.

(1) Sampling. A sufficient number of samples must be collected to be representative of the remediation material contained in the tank. All samples must be collected and handled according to written procedures prepared by you and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the remediation material are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample

integrity is maintained. A copy of the written sampling plan must be maintained on site in the facility site operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures according to the guidance found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846 or Method 25D in 40 CFR part 60, appendix A.

(2) Analysis. Any one of the following methods may be used to analyze the samples and compute the maximum HAP vapor pressure of the remediation material:

(i) Method 25E in 40 CFR part 60 appendix A;

(ii) Methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from External Floating Roof Tanks,";

(iii) Methods obtained from standard reference texts;

(iv) ASTM Method 2879-83; or

(v) Any other method approved by the Administrator.

(c) Use of knowledge to determine the maximum HAP vapor pressure. Documentation must be prepared and recorded that presents the information used as the basis for your knowledge that the maximum HAP vapor pressure of the remediation material is less than the maximum vapor pressure limit listed in Table 2 of this subpart for the applicable tank design capacity category.

(d) In the event that you and us disagree on a determination using knowledge of the maximum HAP vapor pressure of the remediation material, then the results from a determination of maximum HAP vapor pressure using direct measurement by Method 25E in 40 CFR part 60 appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or request that you perform this determination using direct measurement.

**Continuous Monitoring Systems**

**§ 63.7945 What are my monitoring installation, operation, and maintenance requirements?**

(a) Each CPMS must meet the requirements in paragraphs (a)(1) through (4) of this section.

(1) Complete a minimum of one cycle of operation for each successive 15-minute period.

(2) To calculate a valid hourly value, you must have at least three of four equally spaced data values (or at least two, if that condition is included to allow for periodic calibration checks)

for that hour from a CPMS that is not out of control according to the monitoring plan referenced in § 63.7935.

(3) To calculate the average emissions for each averaging period, you must have at least 75 percent of the hourly averages for that period using only block hourly average values that are based on valid data (*i.e.*, not from out-of-control periods).

(4) Unless otherwise specified, each CPMS must determine the hourly average of all recorded readings and daily average, if required.

(b) You must record the results of each inspection, calibration, and validation check.

(c) You must conduct a performance evaluation for each CPMS according to the requirements in § 63.8(e) and your site-specific monitoring plan.

**§ 63.7946 How do I monitor and collect data to demonstrate continuous compliance?**

(a) You must monitor and collect data according to this section and your site-specific monitoring plan required in § 63.7935.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, out of control periods and required quality assurance or control activities in data averages and calculations used to report emissions or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

**§ 63.7947 What are my monitoring alternatives?**

(a) As an alternative to the parametric monitoring required in this subpart, you may install, calibrate, and operate a continuous emission monitoring system (CEMS) to measure the control device outlet total organic emissions or organic HAP emissions concentration.

(1) The CEMS used on combustion control devices must include a diluent gas monitoring system (for O<sub>2</sub> or CO<sub>2</sub>) with the pollutant monitoring system in order to correct for dilution (*e.g.*, to 0 percent excess air).

(2) Each CEMS must complete a minimum of one cycle of operation

(sampling, analyzing, and data recording) for each successive 15-minute period. Data must be reduced as specified in § 63.8(g)(2).

(3) You must conduct a performance evaluation of the CEMS according to the requirements in § 63.8 and Performance Specification 8 (for a total organic emissions CEMS) or Performance Specification 9 (for a HAP emissions CEMS) and Performance Specification 3 (for an O<sub>2</sub> or CO<sub>2</sub> CEMS) of 40 CFR part 60, appendix B. The relative accuracy provision of Performance Specification 8, sections 2.4 and 3 need not be conducted.

(4) You must prepare a site-specific monitoring plan for operating, calibrating, and verifying the operation of your CEMS according to the requirements in §§ 63.8(c), (d), and (e).

(5) You must establish the emissions concentration operating limit according to paragraphs (a)(5)(i) and (ii) of this section.

(i) During the performance test, you must monitor and record the total organic or HAP emissions concentration at least once every 15 minutes during each of the three test runs.

(ii) Use the data collected during the performance test to calculate and record the average total organic or HAP emissions concentration maintained during the performance test. The average total organic or HAP emissions concentration, corrected for dilution as appropriate, is the maximum operating limit for your control device.

(b) You must maintain the daily (24-hour) average total organic or HAP emissions concentration in the exhaust vent stream of the control device outlet less than or equal to the site-specific operating limit established during the performance test.

#### Notification, Reports, and Records

##### § 63.7950 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), 63.8(f)(4) and (6), and 63.9(b) through (h) that apply to you.

(b) As specified in § 63.9(b)(2), if you start up your affected source before October 8, 2003, you must submit an Initial Notification not later than 120 calendar days after October 8, 2003.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after October 8, 2003, you must submit an Initial Notification no later than 120 calendar days after initial startup.

(d) If you are required to conduct a performance test, you must submit a notification of intent to conduct a

performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(e) If you are required to conduct a performance test, design evaluation, or other initial compliance demonstration, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration that includes a performance test or design evaluation, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2). You must submit the complete design evaluation and supporting documentation.

(2) For each initial compliance demonstration that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(f) You must provide written notification to the Administrator of the alternative standard selected under § 63.1006(b)(5) or (6) before implementing either of the provisions.

##### § 63.7951 What reports must I submit and when?

(a) Compliance report due dates. Unless the Administrator has approved a different schedule, you must submit a semiannual compliance report to your permitting authority according to the requirements specified in paragraphs (a)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7883 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your affected source.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of the dates specified in paragraphs (a)(1) through (4) of this section.

(b) Compliance report contents. Each compliance report must include the information specified in paragraphs (b)(1) through (3) of this section and, as applicable, paragraphs (b)(4) through (9) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took action consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from any emissions limitations (including operating limit), work practice standards, or operation and maintenance requirements, a statement that there were no deviations from the emissions limitations, work practice standards, or operation and maintenance requirements during the reporting period.

(6) If there were no periods during which a continuous monitoring system (including a CPMS or CEMS) was out-of-control as specified by § 63.8(c)(7), a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(7) For each deviation from an emissions limitation (including an operating limit) that occurs at an affected source for which you are not using a continuous monitoring system (including a CPMS or CEMS) to comply with an emissions limitation or work practice standard required in this subpart, the compliance report must contain the information specified in paragraphs (b)(1) through (4) and (b)(7)(i) and (ii) of this section. This requirement includes periods of startup, shutdown, and malfunction.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause) as applicable and the corrective action taken.

(8) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source where you are using a continuous monitoring system (including a CPMS or CEMS) to comply with the emissions limitations or work practice standard in this subpart, you must include the information specified in paragraphs (b)(1) through (4) and (b)(8)(i) through (xi) of this section. This requirement includes periods of startup, shutdown, and malfunction.

(i) The date and time that each malfunction started and stopped.

(ii) The date and time that each continuous monitoring system was inoperative, except for zero (low-level) and high-level checks.

(iii) The date, time, and duration that each continuous monitoring system was out-of-control, including the information in § 63.8(c)(8).

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(v) A summary of the total duration of the deviations during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and unknown causes.

(vii) A summary of the total duration of continuous monitoring system downtime during the reporting period and the total duration of continuous monitoring system downtime as a percent of the total source operating time during the reporting period.

(viii) A brief description of the process units.

(ix) A brief description of the continuous monitoring system.

(x) The date of the latest continuous monitoring system certification or audit.

(xi) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(9) You must include the information on equipment leaks required in periodic reports by § 63.1018(a) or § 63.1039(b).

(c) Immediate startup, shutdown, and malfunction report. If you had a startup, shutdown, or malfunction during the semiannual reporting period that was

not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown, and malfunction report according to the requirements of § 63.10(d)(5)(ii).

(d) Part 70 monitoring report. If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report for an affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all the required information concerning deviations from any emissions limitation or operation and maintenance requirement in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements for an affected source to your permitting authority.

#### **§ 63.7952 What records must I keep?**

(a) You must keep the records specified in paragraphs (a)(1) through (4) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(1) and (b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startups, shutdowns, and malfunctions.

(3) Results of performance tests and performance evaluations as required by § 63.10(b)(2)(viii).

(4) The records of initial and ongoing determinations for affected sources that are exempt from control requirements under this subpart.

(b) For each continuous monitoring system, you must keep the records as described in paragraphs (b)(1) and (2) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi) that apply to your continuous monitoring system.

(2) Performance evaluation plans, including previous (i.e., superseded) versions of the plan as required in § 63.8(d)(3).

(c) You must keep the records required by this subpart to show

continuous compliance with each emissions limitation, work practice standard, and operation and maintenance requirement that applies to you.

(d) You must record, on a semiannual basis, the information in § 63.696(g) for planned routine maintenance of a control device for emissions from process vents.

#### **§ 63.7953 In what form and how long must I keep my records?**

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep your files of all information (including all reports and notifications) for 5 years following the date of each occurrence, measurement, maintenance, action taken to correct the cause of a deviation, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off-site for the remaining 3 years.

(d) If, after the remediation activity is completed, there is no other remediation activity at the facility, and you are no longer the owner of the facility, you may keep all records for the completed remediation activity at an off-site location provided you notify the Administrator in writing of the name, address and contact person for the off-site location.

#### **Other Requirements and Information**

##### **§ 63.7955 What parts of the General Provisions apply to me?**

Table 3 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

##### **§ 63.7956 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the EPA, has the authority to implement and enforce this subpart. You should contact your EPA Regional Office (see list in § 63.13) to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the

Administrator of EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are listed in paragraphs (a)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emissions limitations and work practice standards in this subpart under § 63.6(g).

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

**§ 63.7957 What definitions apply to this subpart?**

Terms used in this subpart are defined in the CAA, in § 63.2, and in this section. If a term is defined both in this section and in another subpart cross-referenced by this subpart, then the term will have the meaning given in this section for purposes of this subpart.

*Boiler* means an enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator or a process heater.

*Closed vent system* means a system that is not open to the atmosphere and is composed of hard-piping, ductwork, connections, and, if necessary, fans, blowers, or other flow-inducing device that conveys gas or vapor from an emissions point to a control device.

*Closure device* means a cap, hatch, lid, plug, seal, valve, or other type of fitting that prevents or reduces air pollutant emissions to the atmosphere by blocking an opening in a cover when the device is secured in the closed position. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

*Container* means a portable unit used to hold material. Examples of containers include, but are not limited to drums, dumpsters, roll-off boxes, bulk cargo containers commonly known as portable tanks or totes, cargo tank trucks, dump trucks, and rail cars. For the purpose of this subpart, a front-end loader, excavator, backhoe, or other type of self-propelled excavation equipment is not a container.

*Continuous record* means documentation of data values measured at least once every 15 minutes and

recorded at the frequency specified in this subpart.

*Continuous recorder* means a data recording device that either records an instantaneous data value at least once every 15 minutes or records 15-minutes or more frequent block averages.

*Control device* means equipment used for recovering, removing, oxidizing, or destroying organic vapors. Examples of such equipment include but are not limited to carbon adsorbers, condensers, vapor incinerators, flares, boilers, and process heaters.

*Cover* means a device that prevents or reduces air pollutant emissions to the atmosphere by forming a continuous barrier over the remediation material managed in a unit. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit (such as a tarp) or a cover may be formed by structural features permanently integrated into the design of the unit.

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation, (including any operating limit), or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

*Emissions limitation* means any emissions limit, opacity limit, operating limit, or visible emissions limit.

*Emissions point* means an individual tank, surface impoundment, container, oil-water, organic-water separator, transfer system, vent, or enclosure.

*Enclosure* means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapor through a closed vent system to a control device.

*Equipment* means each pump, pressure relief device, sampling connection system, valve, and connector

used in remediation material service at a facility.

*External floating roof* means a pontoon-type or double-deck type cover that rests on the liquid surface in a tank with no fixed roof.

*Facility* means all contiguous or adjoining property that is under common control including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof. A unit or group of units within a contiguous property that are not under common control (e.g., a wastewater treatment unit located at the facility but is owned by a different company) is a different facility.

*Fixed roof* means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the liquid managed in the unit.

*Flame zone* means the portion of the combustion chamber in a boiler or process heater occupied by the flame envelope.

*Floating roof* means a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the liquid being contained, and is equipped with a continuous seal.

*Flow indicator* means a device that indicates whether gas is flowing, or whether the valve position would allow gas to flow in a bypass line.

*Hard-piping* means pipe or tubing that is manufactured and properly installed according to relevant standards and good engineering practices.

*Individual drain system* means a stationary system used to convey wastewater streams or residuals to a remediation material management unit or to discharge or disposal. The term includes hard-piping, all drains and junction boxes, together with their associated sewer lines and other junction boxes (e.g., manholes, sumps, and lift stations) conveying wastewater streams or residuals. For the purpose of this subpart, an individual drain system is not a drain and collection system that is designed and operated for the sole purpose of collecting rainfall runoff (e.g., stormwater sewer system) and is segregated from all other individual drain systems.

*Internal floating roof* means a cover that rests or floats on the liquid surface (but not necessarily in complete contact with it inside a tank that has a fixed roof).

*Maximum HAP vapor pressure* means the sum of the individual HAP equilibrium partial pressure exerted by

remediation material at the temperature equal to either: the monthly average temperature as reported by the National Weather Service when the remediation material is stored or treated at ambient temperature; or the highest calendar-month average temperature of the remediation material when the remediation material is stored at temperatures above the ambient temperature or when the remediation material is stored or treated at temperatures below the ambient temperature. For the purpose of this subpart, maximum HAP vapor pressure is determined using the procedures specified in § 63.7944.

*No detectable organic emissions* means no escape of organics to the atmosphere as determined using the procedure specified in § 63.694(k).

*Oil-water separator* means a separator as defined for this subpart that is used to separate oil from water.

*Operating parameter value* means a minimum or maximum value established for a control device or treatment process parameter which, if achieved by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with an applicable emissions limitation or standard.

*Organic-water separator* means a separator as defined for this subpart that is used to separate organics from water.

*Point-of-extraction* means a point above ground where you can collect samples of a remediation material before or at the first point where organic constituents in the material have the potential to volatilize and be released to the atmosphere and before placing the material in a remediation material management unit or treatment process. For the purpose this subpart, the first point where the organic constituents in the remediation material have the potential to volatilize and be released to the atmosphere is not a fugitive emissions point due to an equipment leak from any of the following equipment components: pumps, compressors, valves, connectors, instrumentation systems, or safety devices.

*Process heater* means an enclosed combustion device that transfers heat released by burning fuel directly to process streams or to heat transfer liquids other than water.

*Process vent* means any open-ended pipe, stack, duct, or other opening intended to allow the passage of gases, vapors, or fumes to the atmosphere and this passage is caused by mechanical means (such as compressors, vacuum-producing systems or fans) or by

process-related means (such as volatilization produced by heating). For the purposes of this subpart, a process vent is neither a safety device (as defined in this section) nor a stack, duct or other opening used to exhaust combustion products from a boiler, furnace, heater, incinerator, or other combustion device.

*Radioactive mixed waste* means a material that contains both hazardous waste subject to RCRA and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954.

*Remediation material* means a material that contains one or more of the HAP listed in Table 1 of this subpart, and this material is one of the following:

(1) A material found in naturally occurring media such as soil, groundwater, surface water, sediments, or a mixture of such materials with liquids, sludges, or solids which is inseparable by simple mechanical removal processes and is made up primarily of media. This material does not include debris as defined in 40 CFR 268.2.

(2) A material found in intact or substantially intact containers, tanks, storage piles, or other storage units that requires clean up because this material poses a reasonable potential threat to contaminating media. Examples of these materials include, but are not limited to, solvents, oils, paints, and other volatile or semi-volatile organic liquids found in buried drums, cans, or other containers; gasoline, fuel oil, or other fuels in leaking underground storage tanks; and solid materials containing volatile or semi-volatile organics in unused or abandoned piles. Remediation material is not a waste or residue generated by routine equipment maintenance activities performed at a facility such as, but not limited to, tank bottoms and sludges removed during tank cleanouts; sludges and sediments removed from active wastewater treatment tanks, surface impoundments, or lagoons; spent catalyst removed from process equipment; residues removed from air pollution control equipment; and debris removed during heat exchanger and pipeline cleanouts.

*Remediation material management unit* means a tank, container, surface impoundment, oil-water separator, organic-water separator, or transfer system used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material.

*Remediation material service* means any time when a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, or

instrumentation system contains or contacts remediation material.

*Responsible official* means responsible official as defined in 40 CFR 70.2.

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Subpart, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, combustible, explosive, reactive, or hazardous materials.

*Separator* means a remediation material management unit, generally a tank, used to separate oil or organics from water. A separator consists of not only the separation unit but also the forebay and other separator basins, skimmers, weirs, grit chambers, sludge hoppers, and bar screens that are located directly after the individual drain system and prior to any additional treatment units such as an air flotation unit clarifier or biological treatment unit. Examples of a separator include, but are not limited to, an API separator, parallel-plate interceptor, and corrugated-plate interceptor with the associated ancillary equipment.

*Site remediation* means one or more activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material. The monitoring or measuring of contamination levels in environmental media using wells or by sampling is not considered to be a site remediation.

*Sludge* means sludge as defined in § 260.10 of this chapter.

*Soil* means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand,

or gravel size particles (sizes as classified by the U.S. Soil Conservation Service), or a mixture of such materials with liquids, sludges, or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil.

*Stabilization process* means any physical or chemical process used to either reduce the mobility of contaminants in media or eliminate free liquids as determined by Test Method 9095—Paint Filter Liquids Test in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication No. SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992. (As an alternative, you may use any more recent, updated version of Method 9095 approved by the EPA). A stabilization process includes mixing remediation material with binders or other materials, and curing the resulting remediation material and binder mixture. Other synonymous terms used to refer to this process are fixation or solidification. A stabilization process does not include the adding of absorbent materials to the surface of remediation material, without mixing, agitation, or subsequent curing, to absorb free liquid.

*Surface impoundment* means a unit that is a natural topographical depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed

to hold an accumulation of liquids. Examples of surface impoundments include holding, storage, settling, and aeration pits, ponds, and lagoons.

*Tank* means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support and is designed to hold an accumulation of liquids or other materials.

*Temperature monitoring device* means a piece of equipment used to monitor temperature and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius (°C) or ±1.2 degrees °C, whichever value is greater.

*Transfer system* means a stationary system for which the predominant function is to convey liquids or solid materials from one point to another point within waste management operation or recovery operation. For the purpose of this subpart, the conveyance of material using a container (as defined of this subpart) or self-propelled vehicle (e.g., a front-end loader) is not a transfer system. Examples of a transfer system include but are not limited to a pipeline, an individual drain system, a gravity-operated conveyor (such as a chute), and a mechanically-powered conveyor (such as a belt or screw conveyor).

*Treatment process* means a process in which remediation material is physically, chemically, thermally, or biologically treated to destroy, degrade,

or remove hazardous air pollutants contained in the material. A treatment process can be composed of a single unit (e.g., a steam stripper) or a series of units (e.g., a wastewater treatment system). A treatment process can be used to treat one or more remediation material streams at the same time.

*Volatile organic hazardous air pollutant (VOHAP) concentration* means the fraction by weight of the HAP listed in Table 1 of this subpart that are contained in the remediation material as measured using Method 305, 40 CFR part 63, appendix A and expressed in terms of parts per million (ppm). As an alternative to using Method 305, 40 CFR part 63, appendix A, you may determine the HAP concentration of the remediation material using any one of the other test methods specified in § 63.694(b)(2)(ii). When a test method specified in § 63.694(b)(2)(ii) other than Method 305 in 40 CFR part 63, appendix A is used to determine the speciated HAP concentration of the contaminated material, the individual compound concentration may be adjusted by the corresponding  $f_{m305}$  listed in Table 1 of this subpart to determine a VOHAP concentration.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the CAA.

**Tables to Subpart GGGGG of Part 63**

TABLE 1 TO SUBPART GGGGG OF PART 63.—LIST OF HAZARDOUS AIR POLLUTANTS.

CAS No. <sup>a</sup>	Compound name	$f_{m305}$
75070	Acetaldehyde	1.000
75058	Acetonitrile	0.989
98862	Acetophenone	0.314
107028	Acrolein	1.000
107131	Acrylonitrile	0.999
107051	Allyl chloride	1.000
71432	Benzene (includes benzene in gasoline)	1.000
98077	Benzotrichloride (isomers and mixture)	0.958
100447	Benzyl chloride	1.000
92524	Biphenyl	0.864
542881	Bis(chloromethyl)ether <sup>b</sup>	0.999
75252	Bromoform	0.998
106990	1,3-Butadiene	1.000
75150	Carbon disulfide	1.000
56235	Carbon Tetrachloride	1.000
43581	Carbonyl sulfide	1.000
133904	Chloramben	0.633
108907	Chlorobenzene	1.000
67663	Chloroform	1.000
107302	Chloromethyl methyl ether <sup>b</sup>	1.000
126998	Chloroprene	1.000
98828	Cumene	1.000
94757	2,4-D, salts and esters	0.167
334883	Diazomethane <sup>c</sup>	0.999
132649	Dibenzofurans	0.967
96128	1,2-Dibromo-3-chloropropane	1.000
106467	1,4-Dichlorobenzene(p)	1.000
107062	Dichloroethane (Ethylene dichloride)	1.000
111444	Dichloroethyl ether (Bis(2-chloroethyl ether))	0.757



TABLE 1 TO SUBPART GGGGG OF PART 63.—LIST OF HAZARDOUS AIR POLLUTANTS.—Continued

CAS No. <sup>a</sup>	Compound name	f <sub>m305</sub>
542756	1,3-Dichloropropene	1.000
79447	Dimethyl carbamoyl chloride <sup>c</sup>	0.150
57147	1,1-Dimethyl hydrazine	0.0025
64675	Diethyl sulfate	0.086
77781	Dimethyl sulfate	0.0008
121697	N,N-Dimethylaniline	0.0077
51285	2,4-Dinitrophenol	0.0848
121142	2,4-Dinitrotoluene	0.869
123911	1,4-Dioxane (1,4-Diethyleneoxide)	0.939
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	1.000
106887	1,2-Epoxybutane	1.000
140885	Ethyl acrylate	1.000
100414	Ethyl benzene	1.000
75003	Ethyl chloride (Chloroethane)	1.000
106934	Ethylene dibromide (Dibromoethane)	0.999
107062	Ethylene dichloride (1,2-Dichloroethane)	1.000
151564	Ethylene imine (Aziridine)	0.867
75218	Ethylene oxide	1.000
75343	Ethylidene dichloride (1,1-Dichloroethane)	1.000
	Glycol ethers <sup>d</sup> that have a Henry's Law constant value equal to or greater than 0.1 Y/X(1.8 × 10 <sup>-6</sup> atm/gm-mole/m <sup>3</sup> ) at 25° C.	( <sup>e</sup> )
118741	Hexachlorobenzene	0.97
87683	Hexachlorobutadiene	0.88
67721	Hexachloroethane	0.499
110543	Hexane	1.000
78591	Isophorone	0.506
58899	Lindane (all isomers)	1.000
67561	Methanol	0.855
74839	Methyl bromide (Bromomethane)	1.000
74873	Methyl chloride (Chloromethane)	1.000
71556	Methyl chloroform (1,1,1-Trichloroethane)	1.000
78933	Methyl ethyl ketone (2-Butanone)	0.990
74884	Methyl iodide (Iodomethane)	1.000
108101	Methyl isobutyl ketone (Hexone)	0.979
624839	Methyl isocyanate	1.000
80626	Methyl methacrylate	0.999
1634044	Methyl tert butyl ether	1.000
75092	Methylene chloride (Dichloromethane)	1.000
91203	Naphthalene	0.994
98953	Nitrobenzene	0.394
79469	2-Nitropropane	0.989
82688	Pentachloronitrobenzene (Quintobenzene)	0.839
87865	Pentachlorophenol	0.0898
75445	Phosgene <sup>c</sup>	1.000
123386	Propionaldehyde	0.999
78875	Propylene dichloride (1,2-Dichloropropane)	1.000
75569	Propylene oxide	1.000
75558	1,2-Propylenimine (2-Methyl aziridine)	0.945
100425	Styrene	1.000
96093	Styrene oxide	0.830
79345	1,1,2,2-Tetrachloroethane	0.999
127184	Tetrachloroethylene (Perchloroethylene)	1.000
108883	Toluene	1.000
95534	o-Toluidine	0.152
120821	1,2,4-Trichlorobenzene	1.000
71556	1,1,1-Trichloroethane (Methyl chloroform)	1.000
79005	1,1,2-Trichloroethane (Vinyl trichloride)	1.000
79016	Trichloroethylene	1.000
95954	2,4,5-Trichlorophenol	0.108
88062	2,4,6-Trichlorophenol	0.132
121448	Triethylamine	1.000
540841	2,2,4-Trimethylpentane	1.000
108054	Vinyl acetate	1.000
593602	Vinyl bromide	1.000
75014	Vinyl chloride	1.000
75354	Vinylidene chloride (1,1-Dichloroethylene)	1.000
1330207	Xylenes (isomers and mixture)	1.000
95476	o-Xylenes	1.000
108383	m-Xylenes	1.000
106423	p-Xylenes	1.000

Notes:

- 1.  $f_{m305}$  = Fraction measure factor in Method 305, 40 CFR part 63, appendix A.
- <sup>a</sup> CAS numbers refer to the Chemical Abstracts Services registry number assigned to specific compounds, isomers, or mixtures of compounds.
- <sup>b</sup> Denotes a HAP that hydrolyzes quickly in water, but the hydrolysis products are also HAP chemicals.
- <sup>c</sup> Denotes a HAP that may react violently with water.
- <sup>d</sup> Denotes a HAP that hydrolyzes slowly in water.
- <sup>e</sup> The  $f_{m305}$  factors for some of the more common glycol ethers can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

TABLE 2 TO SUBPART GGGGG OF PART 63.—CONTROL LEVELS AS REQUIRED BY § 63.7895(a) FOR TANKS MANAGING REMEDIATION MATERIAL WITH A MAXIMUM HAP VAPOR PRESSURE LESS THAN 76.6 kPa

If your tank design capacity is . . .	And the maximum HAP vapor pressure of the remediation material placed in your tank is . . .	Then your tank must use . . .
1. Less than 38 m <sup>3</sup> .....	Less than 76.6 kPa .....	Tank Level 1 controls under § 63.7895(b).
2. At least 38 m <sup>3</sup> but less than 151 m <sup>3</sup> .....	Less than 13.1 kPa .....	Tank Level 1 controls under § 63.7895(b).
3. 151 m <sup>3</sup> or greater .....	Less than 0.7 kPa .....	Tank Level 1 controls under § 63.7895(b).
4. at least 38 m <sup>3</sup> but less than 151 m <sup>3</sup> .....	13.1 kPa or greater .....	Tank Level 2 controls under § 63.7895(c).
5. 151 m <sup>3</sup> or greater .....	0.7 kPa or greater .....	Tank Level 2 controls under § 63.7895(c).

As stated in § 63.7940, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.1 .....	Applicability .....	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2 .....	Definitions .....	Definitions for part 63 standards .....	Yes.
§ 63.3 .....	Units and Abbreviations .....	Units and abbreviations for part 63 standards	Yes.
§ 63.4 .....	Prohibited Activities .....	Prohibited Activities; Compliance date; Circumvention, Severability.	Yes.
§ 63.5 .....	Construction/Reconstruction .....	Applicability; applications; approvals .....	Yes.
§ 63.6(a) .....	Applicability .....	General Provisions (GP) apply unless compliance extension GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4) .....	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f).	Yes.
§ 63.6(b)(5) .....	Notification .....	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6) .....	[Reserved] .....		
§ 63.6(b)(7) .....	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2) .....	Compliance Dates for Existing Sources .....	Comply according to date in subpart, which must be no later than 3 years after effective date. For 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4) .....	[Reserved] .....		
§ 63.6(c)(5) .....	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d) .....	[Reserved] .....		
§ 63.6(e)(1)–(2) .....	Operation & Maintenance .....	Operate to minimize emissions at all times. Correct malfunctions as soon as practicable. Operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3) .....	Startup, Shutdown, and Malfunction Plan (SSMP).	Requirement for startup, shutdown and malfunction (SSM) and SSMP. Content of SSMP.	Yes with the exception of containers using either Level 1 or Level 2 controls.

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—  
Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.6(f)(1) .....	Compliance Except During SSM .....	You must comply with emissions standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3) .....	Methods for Determining Compliance .....	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3) .....	Alternative Standard .....	Procedures for getting an alternative standard	Yes.
§ 63.6(h) .....	Opacity/Visible Emissions (VE) Standards .....	Requirements for opacity and visible emissions limits.	No. No opacity standards.
§ 63.6(i)(1)–(14) .....	Compliance Extension .....	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j) .....	Presidential Compliance Exemption .....	President may exempt source category from requirement to comply with final rule.	Yes.
§ 63.7(a)(1)–(2) .....	Performance Test Dates .....	Dates for Conducting Initial Performance Testing and Other Compliance Demonstrations. Must conduct 180 days after first subject to final rule.	Yes.
§ 63.7(a)(3) .....	CAA Section 114 Authority .....	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1) .....	Notification of Performance Test .....	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2) .....	Notification of Rescheduling .....	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c) .....	Quality Assurance/Test Plan .....	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: Test plan approval procedures; performance audit requirements; internal and External QA procedures for testing.	
§ 63.7(d) .....	Testing Facilities .....	Requirements for testing facilities .....	Yes.
§ 63.7(e)(1) .....	Conditions for Conducting Performance Tests	Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. Not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2) .....	Conditions for Conducting Performance Tests	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3) .....	Test Run Duration .....	Must have three test runs of at least one hour each. Compliance is based on arithmetic mean of three runs. Conditions when data from an additional test run can be used.	Yes.
§ 63.7(f) .....	Alternative Test Method .....	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g) .....	Performance Test Data Analysis .....	Must include raw data in performance test report. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. Keep data for 5 years.	Yes.
§ 63.7(h) .....	Waiver of Tests .....	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1) .....	Applicability of Monitoring Requirements .....	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2) .....	Performance Specifications .....	Performance Specifications in appendix B of part 60 apply.	Yes.
§ 63.8(a)(3) .....	[Reserved].		
§ 63.8(a)(4) .....	Monitoring with Flares .....	Unless your rule says otherwise, the requirements for flares in 63.11 apply.	Yes.
§ 63.8(b)(1) .....	Monitoring .....	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3) .....	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. If more than one monitoring system on an emissions point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—  
Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.8(c)(1) .....	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i) .....	Routine and Predictable SSM .....	Follow the SSM plan for routine repairs. Keep parts for routine repairs readily available. Reporting requirements for SSM when action is described in SSM plan.	Yes
§ 63.8(c)(1)(ii) .....	SSM not in SSMP .....	Reporting requirements for SSM when action is not described in SSM plan.	Yes.
§ 63.8(c)(1)(iii) .....	Compliance with Operation and Maintenance (O&M) Requirements.	How Administrator determines if source complying with operation and maintenance requirements. Review of source O&M procedures, records, Manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes.
§ 63.8(c)(2)–(3) .....	Monitoring System Installation .....	Must install to get representative emissions and parameter measurements. Must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4) .....	Continuous Monitoring System (CMS) Requirements.	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No.
§ 63.8(c)(4)(i)–(ii) .....	Continuous Monitoring System (CMS) Requirements.	COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes. However, COMS are not applicable. Requirements for CPMS are listed in §§ 63.7900 and 63.7913.
§ 63.8(c)(5) .....	COMS Minimum Procedures .....	COMS minimum procedures .....	No.
§ 63.8(c)(6) .....	CMS Requirements .....	Zero and High level calibration check requirements.	Yes. However requirements for CPMS are addressed in §§ 63.7900 and 63.7913.
§ 63.8(c)(7)–(8) .....	CMS Requirements .....	Out-of-control periods, including reporting .....	Yes.
§ 63.8(d) .....	CMS Quality Control .....	Requirements for CMS quality control, including calibration, etc. Must keep quality control plan on record for 5 years. Keep old versions for 5 years after revisions.	Yes.
§ 63.8(e) .....	CMS Performance Evaluation .....	Notification, performance evaluation test plan, reports.	Yes.
§ 63.8(f)(1)–(5) .....	Alternative Monitoring Method .....	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6) .....	Alternative to Relative Accuracy Test .....	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	No.
§ 63.8(g)(1)–(4) .....	Data Reduction .....	COMS 6-minute averages calculated over at least 36 evenly spaced data points. CEMS 1-hour averages computed over at least four equally spaced data points.	Yes. However, COMS are not applicable. Requirements for CPMS are addressed in §§ 63.7900 and 63.7913.
§ 63.8(g)(5) .....	Data Reduction .....	Data that cannot be used in computing averages for CEMS and COMS.	No.
§ 63.9(a) .....	Notification Requirements .....	Applicability and State Delegation .....	Yes.
§ 63.9(b)(1)–(5) .....	Initial Notifications. ....	Submit notification 120 days after effective date. Notification of intent to construct/reconstruct; Notification of commencement of construct/reconstruct; Notification of startup. Contents of each.	Yes.
§ 63.9(c) .....	Request for Compliance Extension .....	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d) .....	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e) .....	Notification of Performance Test .....	Notify Administrator 60 days prior .....	Yes.
§ 63.9(f) .....	Notification of VE/Opacity Test .....	Notify Administrator 30 days prior .....	No.

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—  
Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.9(g) .....	Additional Notifications When Using CMS .....	Notification of performance evaluation. Notification using COMS data. Notification that exceeded criterion for relative accuracy.	Yes. However, there are no opacity standards.
§ 63.9(h)(1)–(6) .....	Notification of Compliance Status .....	Contents. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. When to submit to Federal vs. State authority.	Yes.
§ 63.9(i) .....	Adjustment of Submittal Deadlines .....	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j) .....	Change in Previous Information .....	Must submit within 15 days after the change ..	Yes.
§ 63.10(a) .....	Recordkeeping/Reporting .....	Applies to all, unless compliance extension. When to submit to Federal vs. State authority. Procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1) .....	Recordkeeping/Reporting .....	General Requirements. Keep all records readily available. Keep for 5 years.	Yes.
§ 63.10(b)(2)(i)–(iv) .....	Records related to SSM .....	Occurrence of each of operation (process equipment). Occurrence of each malfunction of air pollution equipment. Maintenance on air pollution control equipment. Actions during startup, shutdown, and malfunction.	Yes.
§ 63.10(b)(2)(vi) and (x–xi).	CMS Records .....	Malfunctions, inoperative, out-of-control. Calibration checks. Adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii)–(ix) .....	Records .....	Measurements to demonstrate compliance with emissions limitations. Performance test, performance evaluation, and visible emissions observation results. Measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii) .....	Records .....	Records when under waiver .....	Yes.
§ 63.10(b)(2)(xiii) .....	Records .....	Records when using alternative to relative accuracy test.	No.
§ 63.10(b)(2)(xiv) .....	Records .....	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3) .....	Records .....	Applicability Determinations .....	Yes.
§ 63.10(c) .....	Records .....	Additional Records for CMS .....	No.
§ 63.10(d)(1) .....	General Reporting Requirements .....	Requirement to report .....	Yes.
§ 63.10(d)(2) .....	Report of Performance Test Results .....	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3) .....	Reporting Opacity or VE Observations .....	What to report and when .....	No.
§ 63.10(d)(4) .....	Progress Reports .....	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5) .....	Startup, Shutdown, and Malfunction Reports ..	Contents and submission .....	Yes.
§ 63.10(e)(1)–(2) .....	Additional CMS Reports .....	Must report results for each CEM on a unit Written copy of performance evaluation Three copies of COMS performance evaluation.	Yes. However, COMS are not applicable.
§ 63.10(e)(3) .....	Reports .....	Excess Emissions Reports .....	No.
§ 63.10(e)(3)(i–iii) .....	Reports .....	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No.
§ 63.10(e)(3)(iv–v) .....	Excess Emissions Reports .....	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations). Provision to request semi-annual reporting after compliance for one year. Submit report by 30th day following end of quarter or calendar half. If there has not been an exceedance or excess emissions (now defined as deviations), report contents is a statement that there have been no deviations.	No.
§ 63.10(e)(3)(iv–v) .....	Excess Emissions Reports .....	Must submit report containing all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—  
Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.10(e)(3)(vi–viii) ....	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMSs (now called deviations). Requires all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.
§ 63.10(e)(4) .....	Reporting COMS data .....	Must submit COMS data with performance test data.	No.
§ 63.10(f) .....	Waiver for Recordkeeping/Reporting .....	Procedures for Administrator to waive .....	Yes.
§ 63.11 .....	Flares .....	Requirements for flares .....	Yes.
§ 63.12 .....	Delegation .....	State authority to enforce standards .....	Yes.
§ 63.13 .....	Addresses .....	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14 .....	Incorporation by Reference .....	Test methods incorporated by reference .....	Yes.
§ 63.15 .....	Availability of Information .....	Public and confidential information .....	Yes

[FR Doc. 03–21918 Filed 10–7–03; 8:45 am]

BILLING CODE 6560–50–P