

information and other information necessary to document compliance (for example, records related to malfunctions, records that show continuous compliance with emission limits) for 5 years.

For the Initial Notification, the final rule requires that each owner or operator notify us that his or her facility is subject to the HCl Production NESHAP and that he or she provide specified basic information about their facility. For new or reconstructed sources, this notification (or an application for construction or reconstruction) would be required to be submitted no later than 120 calendar days after the facility becomes subject to this subpart. For existing sources that are operating at this time, the Initial Notification would be due August 15, 2003.

For the Notification of Intent report, the final rule requires that each owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

For each new or existing HCl process vent, HCl storage tank, and HCl transfer operation at an affected source, the final rule requires a performance test to demonstrate compliance with the HCl concentration limit. This test must be conducted within 180 days of the compliance date for new and existing sources. The final rule requires that the NOCS report be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (e.g., performance test methods and results, description of air pollution control equipment, and operating parameter values and ranges), must be submitted as part of the NOCS.

For the Compliance Report, the final rule requires that facilities subject to control requirements under the final rule report on continued compliance with the emission limits and operating limits semi-annually. Specifically, the compliance report must contain the following information:

- Company name and address.
- Statement certifying the truth, accuracy, and completeness of the content of the report.
- Date of report and beginning and ending dates of the reporting period.
- Information on actions taken for any startups, shutdowns, or malfunctions that were consistent with your SSM plan.
- If there are no deviations from any emission limitations that apply to you, a statement that there were no

deviations from the emission limitations during the reporting period.

- If there were no periods during which the continuous monitoring system (CMS) was out-of-control, as specified in the monitoring plan, a statement that there were no periods during which the CMS was out-of-control during the reporting period.

You will demonstrate initial compliance with the work practice standards for leaking equipment by certifying that you have developed and implemented a LDAR plan and submitted the plan to the Administrator. Your semiannual compliance report will verify your continued use of the plan and contain information on instances where you deviated from the plan and the corrective actions taken.

Finally, you must submit an immediate SSM report if you have taken an action that is not consistent with the facility's SSM plan. This report must describe actions taken for the event and contain the information in 40 CFR 63.10(d)(5)(ii).

### III. Significant Comments and Changes Since Proposal

This section includes discussion of significant comments on the proposed rule, particularly where we have made changes to address those comments in the final rule. These changes may be separated into three basic categories: applicability, the MACT determination, and performance testing and compliance. This section is organized according to these three topic areas. For a complete summary of all the comments received on the proposed rule and our responses to them, refer to the "National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Hydrochloric Acid Production Industry: Summary of Public Comments and Responses" in Docket ID No. OAR-2002-0057. The docket also contains the actual comment letters and supporting documentation developed for the final rule.

#### A. What Sources are Subject to MACT?

The proposed rule indicated that HCl production facilities at major sources were subject to the final rule. An HCl production facility was defined as the "collection of equipment used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater."

There were numerous comments provided on these applicability provisions. First, several commenters were confused by the apparent contradiction between the definition of an HCl production facility in the proposed rule and the description in the

preamble. The proposed rule language stated that a facility must produce, store, AND transfer HCl in order to be considered an HCl production facility, while the preamble indicated that production of HCl is the only required element for a collection of equipment to be considered an HCl production facility. A few commenters argued that all three elements should be necessary for a process to be an HCl production facility, but most only requested clarification. Our intent was that described in the proposed preamble—that is, a facility only needs to produce liquid HCl product to be considered an HCl production facility. The language in the final rule is clear that processes that produce liquid HCl product are HCl production facilities and subject to the final rule (provided that criteria related to the concentration of HCl in the liquid product and the level of production are met), whether or not they store and transfer the liquid HCl.

As discussed at length in the proposed preamble, it was our intent to separate commercial-level HCl production, which we believe should be subject to the final rule, from incidental production, which we do not believe should be subject. Several comments were received that helped us make this distinction. First, numerous commenters requested that the EPA raise the minimum HCl concentration for an HCl production facility from 10 weight percent to a level that better represents commercial production of HCl. The commenters stated that liquid HCl is commonly produced for commerce at 20° to 22° Baume (Bé) acid strength (31.45 to 35.2 weight percent). However, one commenter's HCl production facility occasionally produces liquid HCl product less than 20 weight percent. Additionally, the commenters made the argument that emissions resulting from a 10 percent HCl product were less, even without controls, than the proposed emission limitations. Specifically, they pointed out that the equilibrium HCl vapor concentration for a 10 weight percent HCl liquid (10.7 ppmv at 25°C) is lower than the proposed emission limitation for process vents, storage tanks, and transfer operations (12 ppmv).

Upon consideration of these comments and the supporting information, we changed the minimum HCl concentration to 30 weight percent. The final rule states that an HCl production facility that produces a liquid HCl product at a concentration of 30 weight percent or greater is subject to the final rule. That means that this unit is subject at all times, even those times when a liquid HCl product of a