

lower concentration is being produced. Therefore, the final rule will cover facilities like the one pointed out by the commenter that occasionally produce liquid HCl product at concentrations less than 30 percent, even when those lower concentration products are being produced.

However, we wanted to ensure that facilities that primarily produce lower concentration liquid HCl products not be subject to the final rule. Therefore, we added a statement in 40 CFR 63.8985(a) that the final rule does not cover HCl production facilities that only occasionally produce liquid HCl products at a concentration of 30 weight percent or greater. We did not, however, include a specific definition of what constitutes occasional production. If a facility produces liquid HCl with a concentration of 30 weight percent or greater during its normal operations, this would not be considered occasional production.

Commenters also suggested facility-wide exemptions based on *de minimis* annual emissions. Commenters provided several exemption levels based on emissions, from 1.8 kilograms per hour to 10 Mg per year. Other commenters believed that an exemption based on production was the appropriate method to eliminate burdensome compliance requirements for facilities with very low HAP emissions. The recommended exemption production levels ranged from 1 Mg per year to 1 gigagram per year.

We believe that, with the 30 weight percent criteria, the final rule should not cover incidental production of HCl. Consequently, we have not added either an emissions-based exemption or a production-based exemption to the final rule.

Commenters also requested that the we clearly delineate where the HCl production facility ends and HCl consumption begins so as not to include equipment unrelated to the production of HCl. While the proposed rule was not specific as to the beginning of an HCl production facility, the proposed preamble did indicate that an HCl production facility begins at the point where the gaseous stream containing HCl enters the absorber. The commenters agreed with this concept and asked that we directly incorporate it into the final rule, which we did.

Most of the problems cited by commenters related to the end of the HCl production facility were remote storage tanks that are dedicated to another process or to wastewater treatment. There was also concern expressed about whether off-site HCl

storage tanks storing HCl produced in a subject unit would be subject to the final rule. One suggestion was that the HCl production facility include only those tanks and transfer operations on the site that are directly connected to the production unit. Another suggestion was to only include the first storage tank after the absorber production unit and the first transfer rack. Other commenters pointed out that the proposed rule would also cover HCl storage tanks and transfer operations that handled purchased HCl that was not even produced in the on-site HCl production facility.

In general, we agree with the commenters on this topic. We believe it is practical that only the primary storage tanks and transfer operations that are storing and loading HCl produced at the site should be subject to the final rule. However, we did not totally agree with either of the suggestions provided by the commenters. In the final rule, we specify that the HCl production facility includes the production unit and all storage tanks that contain liquid HCl product that is produced in the HCl production unit, along with all transfer operations that load HCl product produced in the HCl production unit. Further, it also specifies that the piping and other equipment used to transfer liquid HCl product from the HCl production unit to the storage tanks and/or transfer operations is included in the HCl production facility. The final rule clarifies that the HCl production facility ends at the point that the liquid HCl product produced in the HCl production unit either leaves the plant site via a tank truck, rail car, ship, barge, or pipeline, or enters another process on the plant site. However, we recognized that this still was not totally clear regarding remote storage tanks, so we specifically added exemptions for HCl storage tanks that are dedicated feedstock tanks for other processes and storage tanks which store HCl dedicated for use in wastewater treatment.

Commenters also pointed out that the proposed preamble was clear that the type of process covered by the final rule was one that routes a gaseous stream that contains HCl to an absorber. They asked that this language, which was not included in the proposed rule, be added to the final rule. The commenters acknowledged that there are other methods of producing liquid HCl product, but believe that they should not be covered by the final rule because they were not considered in the final rule development. We agreed and made changes in accordance. These changes include the addition of a definition of HCl production unit that only includes

an absorber or other vessel in which a liquid HCl product is manufactured by absorbing gaseous HCl into either water or an aqueous HCl solution and the change cited above related to the beginning of an HCl production facility.

Commenters requested that facilities that produce liquid HCl only for on-site usage be exempted. We certainly support the recycling and re-use of potential waste materials, including HCl. Further, we are aware that much of the HCl produced is used by other processes on the plant site. However, we do not see a distinction between these processes and other processes where the HCl product is truly sold. We believe an exemption for on-site use would unfairly favor large integrated facilities. Consider two similar HCl processes with similar equipment, similar production capacities, and similar emissions potential. We do not believe that distinguishing between these processes based on where the HCl is consumed is warranted.

Even with the extensive discussions in the proposed preamble related to how the applicability is blind to the type of process that generates the anhydrous HCl stream that forms the feed stream for the HCl production facility, some commenters still called for exemptions for processes where HCl is not the primary product. The primary product concept is not relevant to the final rule, as the only processes that are subject to the final rule are those that intentionally manufacture liquid HCl product. There are a variety of types of processes that generate HCl-containing gas streams that provide the feed to the HCl production unit, and we recognized that this gaseous HCl is often a by-product. However, at the point an owner or operator takes this stream and manufactures a commercial level (*i.e.*, 30 weight percent or greater) liquid HCl product, we maintain that HCl is the intended product for that unit. Therefore, the process that creates the anhydrous HCl stream feeding the HCl production facility is not relevant in most situations.

The only time that the up-stream process is relevant is when it is subject to a Federal regulation that also regulates the HCl and Cl₂ emissions from the downstream HCl production facility. At proposal, we identified several of these situations and specifically exempted the HCl production facilities subject to these other standards. While all commenters applauded this concept, they did not feel that we had gone far enough with these exemptions. Some commenters cited other specific regulations that should be listed, while others requested