

limit. We were concerned that it would be difficult to determine how and where to measure a control efficiency but commenters alleviated this concern by stating that the HCl production unit is distinguishable from the control device, which makes it clear where to measure the control device inlet and outlet in order to calculate a control efficiency over the control device. Therefore, we have incorporated the third suggestion of the commenters (compliance with either a control efficiency or a concentration limit) into the final rule. Owners or operators will have the option of complying with a percent reduction efficiency instead of the outlet concentration limitation. For storage tanks and transfer operations, the percent reduction and concentration limit are equivalent assuming that a 30 weight percent liquid HCl product is stored in the tanks or used in the transfer operations. For process vents, the percent reduction and concentration limits are equivalent assuming process vent outlet concentrations of approximately 2,000 ppmv HCl and 10,000 ppmv Cl₂. These outlet concentrations were assumed in order to take into account the variability of outlet concentrations from HCl process vents. The percent reduction will be measured across the control device, or series of control devices, that follow the absorber production unit, storage tank, or transfer rack. We have added definitions of HCl production unit and control device to ensure that there is no confusion regarding where the percent reduction must be measured.

Comments were received on whether transfer operations and wastewater operations should have emission limitations. We were asked to reconsider the need to set emission limitations for transfer operations because emissions from transfer operations contribute less than one percent of the total emissions from HCl production facilities and because most transfer operations at HCl production facilities are already controlled. There was complete agreement, however, that our decision not to establish emission limits or work practice standards for wastewater treatment operations was appropriate.

We are obligated to set emission limitations at least as stringent as the MACT floor, which we are required to establish based on the average emission limitation achieved by the best-performing existing sources, regardless of the percentage of total emissions attributable to the specific equipment or process. This principle was applied for both transfer operations and wastewater. For transfer operations, the available

information is consistent with the commenter's statement that "most transfer operations are already controlled." Therefore, we are required to establish limits requiring control based on the best performing sources. We did not identify any controls for emissions from wastewater, or any process modifications or other pollution prevention type measures that reduce HCl emissions from wastewater. For the reasons discussed in the preamble to the proposed rule, we determined that the new and existing source MACT floors for wastewater were no emissions reductions (66 FR 48181-48182; September 18, 2001). Therefore, the final rule does not require any controls or other measures even though wastewater operations are part of the affected source.

Similarly, in developing the proposed rule, we determined that the MACT floor for leaking equipment is a general plan to detect and repair leaks of HCl because most HCl production facilities are already performing LDAR activities. The response received on these proposed requirements varied.

Several commenters agreed with our basic proposed approach to require the development and implementation of a site-specific plan, rather than to include more formal requirements in the final rule. However, there was great concern regarding the proposed requirement to submit the plan to a permitting authority for review and approval. The commenters stated that they are not aware of any NESHAP that requires LDAR plans to be submitted for approval, and that requiring these plans to be submitted for approval effectively makes them part of a facility's title V operating permit and, consequently, implementation of the initial plan and any changes to the plan would require a formal permit amendment. They claimed that this would be very time consuming and an unnecessary burden. The commenters noted that the proposed rule did not address how the plan is to be approved, and requested that, if the requirement to submit the plan is not eliminated, the EPA provide criteria for permitting authorities to use in reviewing LDAR plans. The commenters asserted that eliminating the requirement to submit LDAR plans alleviates the burdens associated with title V permits and also allows informal or routine maintenance programs to constitute the LDAR plan.

One commenter proposed that we include very simplified requirements in the final rule (e.g., if you detect a leak, repair it within 15 days). Others argued that the EPA should eliminate any and

all references to an LDAR plan from the final rule.

First, in light of the fact that most, if not all, HCl production facilities already have programs to reduce emissions from equipment leaks at HCl production facilities, we cannot eliminate the requirement to establish a floor and control emissions from equipment leaks. We also believe it is important that LDAR plans be submitted to the Administrator to facilitate enforcement of the final rule and public access to non-confidential plan requirements, and the final rule retains the proposed requirement for submittal. However, in response to the commenters' concerns, we have eliminated the proposed requirement that LDAR plans be affirmatively approved. Instead, we have clarified that any deficiencies in LDAR plans must be promptly corrected upon request by the Administrator, in order to allow the Administrator to review and approve LDAR plans if the Administrator so chooses.

Moreover, we do not intend that the contents of a LDAR plan itself must be included in a facility's title V permit. Rather, like other requirements of the final rule, the requirements to develop, implement, and submit a LDAR plan to control emissions from equipment leaks—but not the contents of the plan—are applicable requirements under title V and must be reflected in a facility's title V operating permit. We have clarified that you may incorporate by reference into your LDAR plan existing manuals that describe LDAR activities required under other federally enforceable rules, provided that copies of all manuals that are incorporated by reference are submitted to the Administrator. We are also requiring that a current copy of the plan be maintained on site, and that previous versions be maintained on site for a period of 5 years after any revision of the plan.

C. What Are the Performance Testing and Other Compliance Provisions?

Several changes were made in the final rule related to the performance testing and other compliance provisions. First, commenters objected to the proposed annual performance testing requirement. They stated that the initial performance test is sufficient to demonstrate initial compliance and establish operating parameter ranges and that monitoring of those parameters is sufficient to demonstrate continuous compliance. The commenters further stated that performance tests are expensive and provide no additional environmental benefit, and that the cost of annual performance tests was not