

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).