

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,