

the potential to emit substantial quantities of HAP.

*B. How Did We Select the HAP To Be Regulated by the Final Rule?*

*Comment:* Several commenters requested that we reconsider our selection of which HAP are regulated under the final rule to include metals and inorganic compounds listed as HAP. In particular, the commenters stated that beryllium and other heavy metals should be included because these HAP cause harm to public health and welfare. Other commenters supported our decision not to regulate remediation activities that emit metal HAP or other inorganic HAP. One commenter stated that the final rule should be based on a HAP list developed specifically for site remediation instead of using the list under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

*Response:* A site remediation potentially could be required at any of a wide variety of industrial facilities, manufacturing plants, waste treatment and disposal facilities, and other types of sites. Consequently, the contaminating substances at a site requiring cleanup could be any of the organic, metal, or inorganic chemicals or groups of chemicals that are listed as HAP pursuant to CAA section 112(b). However, some of these contamination substances that are also listed as HAP have no or minimal potential to be emitted to the atmosphere from the site remediation activities performed at the site to clean up the contamination (notwithstanding that metal and other inorganic HAP may be present in the material being remediated).

In developing the proposed Site Remediation NESHAP, we considered all of the HAP listed pursuant to CAA section 112(b) for regulation by the proposed rule (see 67 FR 49413). Based on the information available to us at proposal regarding the cleanup of media contaminated with metals or other inorganic HAP, many of the remediation techniques used for these cleanups do not release the metals or inorganic HAP to the atmosphere. In cases where remediation material containing a metal or inorganic HAP is burned in an incinerator or other combustion unit, the combustion unit must already meet air standards under the CAA and RCRA that limit organic, particulate matter, metals, and chloride emissions. Therefore, we concluded that metals and other inorganic compounds listed as HAP pursuant to CAA section 112(b) do not need to be regulated by the final

Site Remediation NESHAP. We specifically requested comment at proposal on our conclusion. We received some additional information from commenters supporting our decision not to include any metal or inorganic HAP on our list of regulated HAP for the final Site Remediation NESHAP. We received no information from commenters to support a determination that metal or inorganic HAP are being emitted from site remediation activities. Therefore, we continue to believe that metal and other inorganic compounds HAP do not need to be addressed by the final Site Remediation NESHAP.

In selecting the organic HAP to be regulated by the final Site Remediation NESHAP, we chose at proposal to be consistent with the approach we used for under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations as well as other NESHAP promulgated for source categories with large diversity in the organic chemical constituents present in the materials managed at any given facility. Under this approach, a specific list of pollutants is selected that reasonably ensures MACT control of the organic HAP emitted from the source. We used this approach to develop the HAP list for under 40 CFR part 63, subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations by evaluating each chemical or chemical group listed as a HAP in CAA section 112(b) with respect to its potential to be emitted from a waste management or recovery operation (see 59 FR 1921).

Subpart DD under 40 CFR part 63 does not apply to OSWRO sources managing wastes received from site remediations. However, the data base that we used to select the list of HAP for subpart DD under 40 CFR part 63 included remediation wastes sent to hazardous waste TSDF. We concluded that this data base is also representative of the range of organic HAP chemicals having the potential to be emitted from the sites requiring cleanup of media contaminated with volatile or semi-volatile organics and other remediation material. Therefore, we proposed that same list of organic HAP used for the subpart DD under 40 CFR part 63 also be used for the final Site Remediation NESHAP. We requested comment at proposal regarding the use of this list of organic HAP for the final Site Remediation NESHAP. We received no new data from commenters, and have not ourselves found additional data since proposal to cause us to alter our

conclusion. These data are the best information available representative of the range of organic HAP chemicals having the potential to be emitted from site remediation activities, and that it is most appropriate to use also the HAP list from subpart DD under 40 CFR part 63 for the Site Remediation NESHAP.

When we developed the HAP list for subpart DD under 40 CFR part 63, we evaluated each organic chemical or chemical group listed as a HAP in CAA section 112(b) with respect to its potential to be emitted from a waste management or recovery operation (see 59 FR 51921). The criteria used to characterize and evaluate emission potential was based on a chemical constituent's Henry's law constant, evaluation of the aqueous and organic volatility characteristics of the chemical, and the ability of the analytical test methods to quantitate the chemical. Based on our evaluation, we developed the list of specific organic HAP compounds or compound groups to be regulated under the final rule (Table 1 in subpart DD under 40 CFR part 63). We later decided to delete eight chemicals from our initial list because we concluded that there is low potential for these compounds to be emitted from OSWRO (see 61 FR 34153). Dimethyl hydrazine was one of the eight compounds we removed from the list. Table 1 in the proposed Site Remediation NESHAP inadvertently included dimethyl hydrazine as one of the regulated HAP. We have corrected Table 1 in the final Site Remediation NESHAP to accurately reflect our intent by deleting dimethyl hydrazine from the list.

*C. How Do We Define Site Remediation in the Final Rule?*

*Comment:* Commenters expressed the concern that, as proposed, the final rule applicability provisions are unclear and circular. Several commenters requested that we clearly define the term "remediation" or the remediation activities subject to the final rule. Commenters also stated that routine waste management activities (e.g., tank clean-outs, removing spent catalyst from reactors, cleaning heat exchangers and other piping, etc.) are not site remediation activities and should be distinguished from site remediation activities subject to the final rule.

*Response:* We have written the regulatory language in the applicability section of the final rule to clarify our intent as to what is a site remediation for the purpose of implementing the Site Remediation NESHAP. The basis for all of our revisions to the proposed rule is consistency with our intent that the