

final rule address HAP emissions from activities to clean up environmental media contaminated with HAP as well as clean up certain stored or disposed materials at a site that contain HAP and pose a reasonable potential threat to contaminating environmental media. It was never our intention that the final rule be interpreted to apply to activities at a facility required for management of waste generated by routine equipment maintenance activities or other types of activities necessary to continue day-to-day operations at a facility.

*D. Why Does the Final Rule Not Apply to CERCLA Superfund and RCRA Corrective Action Cleanups?*

*Comment:* We received comments supporting our proposal that site remediations conducted for CERCLA Superfund and RCRA corrective action cleanups not be subject to the final Site Remediation NESHAP. These commenters believe that these RCRA and CERCLA cleanup programs do have appropriate provisions which provide for the protection of public health and the environment from air pollutants emitted from site remediation activities on a site-specific basis. Other commenters opposed the exclusion of these site remediations from being subject to the final Site Remediation NESHAP because they assert that neither of the RCRA and CERCLA programs have air emission standards for site remediation activities and that the requirement of CAA section 112 is to establish NESHAP for HAP emissions from these activities. Among other things, such control could address any regulatory gaps in RCRA and CERCLA requirements.

*Response:* The RCRA hazardous waste corrective action and CERCLA Superfund programs do not establish national air standards for site remediations. These programs, however, do have provisions which provide for the protection of public health and the environment from air pollutants emitted from these activities on a site-specific basis. As we stated at proposal, the established Federal requirements provide an appropriate and effective regulatory approach to address air emissions from those remediation activities performed under CERCLA authority as a remedial action or a non-time critical removal action, or under RCRA authority at permitted or Federal Order RCRA corrective action sites.

The Superfund program is designed to protect public health and the environment while providing the flexibility to use effective and innovative remediation approaches that best suit the site-specific conditions at

each CERCLA site (CERCLA section 121). The Superfund program conducts extensive evaluation of the contamination at each CERCLA site (see 40 CFR 300.430). As part of the evaluation process, a decision document (*i.e.*, Record of Decision (ROD)) is developed for response actions, documenting the extent of contamination and the cleanup method(s) to be used at the site. Under this process, a site-specific analysis, considering the impacts to air, soil and groundwater, is conducted and an appropriate remedy is selected. During the ROD process, the general public is given the opportunity for input in the decision-making process through public hearings and submission of written comments. The public plays an important role in identifying and characterizing site-specific factors, such as the type of contaminants, the level and extent of contamination and other site-specific factors. We believe this procedure results in selection of the best plan for cleaning up each site and achieving the program's goals.

As implemented under the requirements of RCRA, hazardous waste treatment, storage and disposal facilities must obtain a permit specifying requirements for managing hazardous waste. As a condition of obtaining this permit, facilities are required to undertake corrective action addressing releases of hazardous waste and hazardous constituents from units at the facility which do not themselves require RCRA permits (solid waste management units) (RCRA section 3004(u)). For such designated contamination areas at TSDF, requirements for the cleanup of the contamination are included in the facility's RCRA permit, or Federal Order where applicable. Such cleanup activities are known as "corrective actions." Although RCRA is a separate program from Superfund, the RCRA permitting or Federal Order process for TSDF share several significant characteristics with Superfund cleanup activities at CERCLA sites. First, it is also the intent of the RCRA corrective action program to protect public health and the environment while allowing flexibility in choosing solutions to eliminate or reduce site contamination. Second, RCRA permitting and Federal Order procedures involve the public in the decision-making process through informal public meetings, public hearings or written comment. Finally, an extensive site-specific evaluation is performed at the RCRA facility to evaluate the extent of the contamination, while considering appropriate remedies through a multi-

media (*i.e.*, air, soil, groundwater) perspective (see 67 FR 49406 for additional explanation).

*E. Why Does the Final Rule Potentially Apply to State and Voluntary Cleanup Programs?*

*Comment:* Many commenters requested that in addition to CERCLA Superfund and RCRA corrective action cleanups, that other cleanups conducted under Federal or State oversight not be subject to the final rule, where such cleanups are conducted following CERCLA or RCRA requirements. The commenters argued that these cleanups conducted under State Superfund, Brownfield, voluntary cleanup, or other similar programs are subject to emissions controls and requirements that are substantially similar to those in the CERCLA or RCRA programs.

*Response:* The final Site Remediation NESHAP applies only to site remediations that meet the three applicability conditions specified in the final rule. We have determined that site remediations at those sites that meet these applicability conditions warrant the implementation of air pollution controls to reduce the emission of organic HAP to the atmosphere. As discussed in our previous response, we are exempting from the final rule requirements those sites that meet the final rule applicability conditions where the site remediations are conducted for CERCLA (Superfund) or RCRA corrective action cleanups. This includes the site remediations in one of 39 States that the EPA has authorized to oversee cleanups at TSDF under RCRA corrective action. Site remediations administered under these federally-enforceable programs address the organic HAP emissions from the site remediations on a site-specific basis.

The overall objective of any site remediation, whether it be a Federal required, State required, or voluntary cleanup, is to remove the threat to human health and the environment posed by the presence of hazardous substances in the contaminated media and wastes that can potentially contaminate the media at the site. However, the actions taken at a given contamination site that remove the hazardous substances from water or soil by transferring those substances to the air is not in the best interest of protecting human health and the environment from exposure to these hazardous substances. Unlike CERCLA or RCRA corrective action cleanups, State regulatory and voluntary cleanup programs are not uniform on a national basis, any requirements imposed on a given site remediation are not federally-