

safety concerns require that containers be continuously vented to obviate the buildup of gases within the container. These gases could result from radiolysis, which is the breakdown of moisture by radiation. The vents, which are nominally 0.75 in. (1.9 centimeters) in diameter, are generally installed on or near the lids of the containers. These vents are filtered so that gas can escape while particulates are retained. \* \* \*

In addition, the permit in the section describing the requirements for the standard transuranic mixed waste drums states on page M1-2, “\* \* \* One or more filtered vents (as described in section M1-1d) will be installed in the drum lid to prevent the escape of any radioactive particulates and to eliminate any potential of pressurization. \* \* \*

To comply with these requirements, the drum lid is punctured to release any buildup of potentially explosive hydrogen gas and a specially-designed, carbon composite membrane filter vent is attached. The function of this filter vent is to retain radionuclides inside a container while allowing hydrogen and other gases (e.g., VOC) to pass through to the atmosphere. In particular, the carbon composite membrane used in the filter vent does not inhibit the passing of VOC from the container into the atmosphere.

Because it was judged an unsafe practice to store RMW drums and other containers with tight covers, and because the WIPP Waste Analysis Plan requires that containers be vented for shipment to the WIPP, we determined that many Department of Energy facilities may be unable to meet the tight cover control device criteria for containers as specified in the proposed Site Remediation NESHAP. In addition, we were unable to determine, if there were any available technologies that could be applied to the RMW containers that would control organic air emissions in a safe and cost-effective manner while also complying with WIPP and other AEA and NWSA requirements.

Information gathered and reviewed following proposal of the Site Remediation NESHAP does not indicate that the situation regarding the safety issue related to storage of RMW has changed since proposal. The potentially conflicting requirements for containers (and other storage units) to be vented under one set of rules versus the requirements for closed, tight fitting covers under the CAA rules remains to be resolved. We are not aware of any available device to control organic air emissions (such as an activated carbon filter) that can be used in combination with the carbon composite membrane filter vent on a RMW container. No

available technologies have been identified that could be applied to the RMW containers that would control organic air emissions in a safe and cost-effective manner while also complying with WIPP and other AEA and NWSA requirements. With no known controls in place on these sources, the MACT floor for RMW sources (e.g., RMW containers) appears to be no control beyond that already provided by the NRC and other applicable regulations. Codifying the same level of control already established under another regulatory authority as a MACT standard seems a needless expenditure of resources since it would not change existing practice or otherwise provide benefits not already provided by the existing regulations. Therefore, we have retained in the final rule an exemption from the air pollution control requirements under the final Site Remediation NESHAP for remediation material management units (e.g., tanks, containers, and surface impoundments) managing RMW.

Although the technical information and data we have collected support inclusion of an exemption for remediation material management units managing RMW from the air pollution control requirements under the final Site Remediation NESHAP, we concluded from our review of this information that this is not the case for site remediation treatment process vents and equipment leaks. The technical and safety concerns for the required controls for organic emissions from containers and tanks managing RMW are not an issue with the controls required by the final Site Remediation NESHAP for treatment unit process vents and equipment leaks if applied to remediation material streams that are classified as RMW. We have not identified any conflicting regulatory requirements that would preclude the use of air pollution controls on these sources as is the case with tanks and containers. Also, since 1990, remediation material streams classified as RMW have been subject to, and in compliance with, the air pollution control requirements in the national air standards we promulgated under RCRA authority to control total organic emissions from hazardous waste TSDF treatment process vents (subpart AA in 40 CFR parts 264 and 265) and equipment leaks (subpart BB in 40 CFR parts 264 and 265). The air pollution control requirements under these RCRA air rules are the same as the requirements for site remediation treatment process vents and equipment leaks included in the final Site

Remediation NESHAP. With demonstrated controls in place on these treatment unit and equipment component sources, MACT for these RMW sources (i.e., process vents and equipment leaks) would be established at the control levels required under those rules. Because the technical issues related to safety concerns for RMW containers and other storage units do not apply to treatment unit process vents and equipment leaks, we have written the final Site Remediation NESHAP to limit the exemption to only remediation material management units managing RMW. Remediation activities involving the cleanup of RMW that meet the final rule applicability criteria are subject to standards for treatment unit process vents and equipment leaks under the final Site Remediation NESHAP.

#### *H. How Does the Final Rule Apply to Short-Term Site Remediations at Affected Facilities?*

*Comment:* Commenters supported our proposal to exempt short-term cleanups from being subject to the emissions limitations and work practice standards but requested longer allowable cleanup intervals. Commenters argued that the proposed 7-day initiation period from the time the contamination occurs and 30-day cleanup period are too short because they do not account for circumstances beyond the control of an owner or operator which may delay discovery of the contamination or completing the cleanup within 30 days.

*Response:* We reviewed our proposed regulatory language for the exemption and concluded that the proposal does not accurately reflect our intent. Therefore, we have written in the final rule the approach we use to implement the exemption. This approach preserves our original intent as to which site remediations warrant exemption as well as addresses the concerns raised by commenters regarding the situations when a short-term site remediation takes longer to complete than initially planned and extends beyond the allowable time interval because of circumstances beyond their control.

The purpose of the final Site Remediation NESHAP is to control organic HAP emissions released to the atmosphere during site remediations. Organic HAP emissions from in-situ treatment processes primarily occur when an air or gas stream from the remediation process is exhausted to the atmosphere. Organic HAP emissions can be released from extraction or excavation of contaminated material and the subsequent handling, treatment, and disposal of these materials. The