

removed from the database because no such vent ever existed; the database includes errors such as emission points that are not continuous process vents; the analysis was conducted on a facility basis rather than a vent basis; flowrate assumptions are too high; the sample population is too small; and the database is skewed by a disproportionate number of sources in ozone nonattainment areas.

Response: To develop the MACT floor for continuous process vents, we relied on available information from State permitting databases. To the best of our knowledge, these data reflect the sources that will be subject to requirements for continuous process vents. Although many of these facilities are in ozone nonattainment areas, the commenters have provided no evidence that this is not representative of sources that will be subject to the final standards. We disagree with the commenter's assertion that the analysis should be conducted on a vent basis rather than a facility basis. Our analysis was designed to identify what level of emissions would not be controlled by facilities that would be considered the best-controlled sources in the industry. That level of emissions, characterized by the vent with the highest TRE index value below which all other vents were controlled, became the TRE cutoff value for the facility. We consider the analysis valid and in keeping with the statutory MACT requirements of CAA section 112(d)(3). Regarding our assumption of flowrate in cases where no flowrate data were available, we note that our assumed flowrate is the average of the available flowrates. In response to the objection that the sample population was too small, we note that it is derived from many of the major chemical producing States, and we estimate that it represents about half of the affected sources with continuous process vents. However, we agree that the vent at the BP facility should be excluded because it never existed. Without this vent, the TRE threshold for control of continuous process vents is now 1.9 rather than 2.6.

Comment: Several commenters requested that control devices installed prior to April 4, 2002, be grandfathered from the 98 percent reduction requirement if they achieve 90 or 95 percent control of organic HAP. The commenters noted that many companies may be faced with abandoning existing control devices and installing new devices to get only an incremental reduction in HAP emissions, and they noted that other MACT rules (e.g., pharmaceuticals and pesticide active ingredients) allow the continued use of existing controls that have a lower

efficiency than the standard. One commenter also indicated that regenerative thermal oxidizers (RTO) have difficulty in achieving 98 percent control.

Response: Since the final rule provides less stringent control requirements for control devices that can recover materials for reuse, we assume that the bulk of the concern related to control devices is for incinerators that will not meet 98 percent. Devices such as RTO are typically installed to control high air flow, low concentration streams. Therefore, while this type of device may not meet the 98 percent control requirement, the final rule also allows sources to demonstrate compliance with an outlet concentration limit, which may be achievable by an RTO when the uncontrolled HAP concentration in the vent stream is low. We note also that the batch vent requirements contain options for monitoring parameters in lieu of correcting outlet concentration for 3 percent oxygen (O₂). Finally, the final rule includes a provision that may enable some sources to group nondedicated processing equipment together and comply only with the requirements in the rule that apply to the primary product made in the equipment.

E. Storage Tank Standards

Comment: Several commenters indicated that the proposed definition of "storage tank" is inconsistent with the ICR, MACT floor calculations for both storage tanks and process vents, EPA applicability determination documents, and other MACT rules; likely to lead to compliance confusion; and likely to force replacement of many existing floating roof tank controls at huge costs for negligible benefits. Many of the commenters recommended revising the storage tank definition to match the actual assignment of tanks in the storage tanks database and recalculating the MACT floor.

Response: The definition of "storage tank" in the proposed rule was based on the treatment of process tanks and storage tanks in the pharmaceuticals industry, a predominantly batch industry. The basis for only considering raw material feedstock tanks as true storage tanks was that the product tanks were seldom of the size at which the storage tank capacity cutoffs were set in many rules, and that a predominant number of tanks were used within processes as feed tanks from one unit operation to another. As such, emission events from these tanks usually would be calculated based on displacement resulting from filling the tank, usually

on a per batch basis, and included in the operating scenario for an entire process. Emissions, therefore, were tied to the number of batches produced, as the material was transferred into and out of these tanks during each batch. We consider these tanks to be true process tanks and expect that the batch processors in the miscellaneous organic chemical manufacturing industry would agree with this treatment.

We recognize, however, that this industry contains significant numbers of continuous processors. We also recognize that this industry is more varied than the pharmaceuticals industry and that there are more tanks that are of a size and function that would be treated as storage tanks in other rules. For example, product rundown tanks and product storage tanks are not based on the number of batches, and material remains in the tank or is "stored" on a fairly continuous basis. The tanks are not filled and emptied during batch operations. These tanks are storage tanks and are recognized as such in the final rule.

We agree that the responses to the section 114 ICR would be based on the HON and NSPS definitions, and we have revised the storage tank definition to be consistent with the HON and NSPS. Although defined separately, the HON treats surge control vessels and bottoms receivers, types of tanks found in predominantly continuous processes that function in receiving material between continuous operations, exactly like storage tanks. We kept these terms and requirements in the final rule, but revised the definition of surge control vessel to be consistent with the definition of continuous process vent (i.e., surge control vessels must precede continuous reactors or distillation operations). We also added a definition for "process tank" to clarify which tanks we would consider as part of the batch process vent standards. The changes do not affect MACT floors; they only change applicability under the storage tank standards or under the batch process vent standards.

F. Standards for Wastewater Systems

Comment: Numerous commenters urged elimination of the requirement to enclose sewers and tankage for conveyance to treatment of wastewater streams with primarily soluble HAP. The commenters stated that soluble HAP do not volatilize significantly from wastewater streams upstream of biological treatment, but the cost to suppress emissions would be significant. Some commenters suggested exempting from control those