

multipurpose batch operations or POD that serve numerous processes because the equipment is part of a flexible operation.

For 40 CFR part 63, subpart FFFF, however, we based the MACT floor on data from wastewater streams that were developed based on our proposed definition of wastewater. Therefore, the definition of annual average is based on wastewater streams from a POD from a single MCPU. For flexible operations (e.g., multipurpose equipment not dedicated to any single process), we have incorporated the concept of a family of materials that considers as a single product the manufacturing processes of multiple materials that are related. Additionally, we consider "nondedicated solvent recovery operations" as a single process. Therefore, in these two circumstances, the definition of wastewater stream should be based on the total mass and flow out of the POD from the sum of all operations considered within the family of materials or within the recovery process. In all other cases, the flow and concentration of HAP should be based on the total flow of wastewater and mass of HAP from all batches of a single process.

The final rule requires a manufacturer of a family of materials in flexible operation units to determine the annual average using a procedure consistent with that described by the commenter. Specifically, the worst-case product would determine the standard batch, and the total flow of wastewater would be based on the total flow of wastewater generated by all batches manufactured in any 12-month period. However, if materials manufactured in the flexible operations fell among more than one product not considered part of a family of materials, we would consider these separate processes, and the annual average concentration and flow would be limited to the characteristics of each process.

Comment: Consistent with comments on the definition of the miscellaneous organic chemical manufacturing process, one commenter suggested revising the definition of "maintenance wastewater" to clarify that wastewater from routine cleaning operations occurring within a batch process is not considered maintenance wastewater. Another commenter noted that some cleaning operations are performed for equipment preparation and to remove inorganic scale from the equipment on an occasional, though somewhat regular basis. The commenter observed that these operations are performed between batches, though not between every batch or even between batches of different

grades. They are performed when maintenance is needed or plugging is evident. The commenter asked for clarification that the types of cleaning operations that do not generate maintenance wastewater are those performed between batches for the purposes of changing grades and not those done to prepare equipment for maintenance or to remove inorganic foulants.

Response: We agree with the commenters regarding the need to exclude non-routine cleaning operations from other process wastewater streams and have included them in the definition of "maintenance wastewater." This issue is analogous to the issue of including vents from routine cleaning operations as process vents and covering other types of events under the SSM provisions.

Comment: One commenter requested an exemption from the offsite certification requirement in 40 CFR 63.132(g)(2), (3) and (4) for any facility electing to discharge wastewater streams to a RCRA-permitted treatment, storage, and disposal facility (TSDF) under 40 CFR parts 264 and 265. The commenter asserted that a RCRA TSDF should be presumed to be acceptable compliance equipment for miscellaneous organic chemical manufacturing facilities, and this presumption should be explicitly stated in the final rule.

Response: We agree that RCRA TSDF satisfy the compliance requirements in the final rule. The proposed subpart FFFF explicitly stated that performance tests, design evaluations, and related monitoring, recordkeeping, and reporting would not be required when a hazardous waste incinerator is used to meet emission limits. This provision is retained in the final rule through the reference to § 63.988(b)(2), and it applies to offsite treatment facilities as well as affected sources. To simplify and clarify the requirements for offsite treatment facilities, the final rule states that the affected source may indicate in its notification of compliance status (NOCS) report that it is shipping the wastewater to an offsite treatment facility that meets the requirements of 40 CFR 63.138(h), and that the wastewater will be treated as hazardous waste; this documentation may serve as the certification from the offsite treatment facility.

G. Standards for Equipment Leaks

Comment: Three commenters stated that the docket does not support our conclusion that the HON LDAR program is the MACT floor. Two of the commenters also opposed our approach of assigning a single LDAR program to

each facility. They noted that facilities do not always use the same LDAR program for all of their processes. According to one commenter, there also are numerous errors and inconsistencies between various background memoranda, the section 114 ICR responses, and the equipment leaks database that EPA distributed to industry, with no documentation in the docket to explain the differences. After obtaining new information from some of the facilities in the database, the commenter saw no support for a determination that HON-equivalent controls establish the MACT floor (i.e., of the estimated 1,220 processes, only 34, or 2.8 percent, appear to have HON-equivalent programs). The other two commenters indicated that the floor (and standard) should be based on either the LDAR program in the SOCM I NSPS (40 CFR part 60, subpart VV) or subpart TT of 40 CFR part 63 (the Generic MACT).

Response: After considering the comments and reviewing the available data, we decided to determine the MACT floor on a process basis because some facilities do not implement the same LDAR program for all of their miscellaneous organic chemical manufacturing processes. Therefore, we decided to reevaluate the MACT floor on a process basis. Before revising the analysis, we also reviewed the specific data entries that were disputed by the commenters.

Regrettably, the database that was made available to the industry was not consistent with the final database that we used to develop the MACT floor prior to proposal. As a result, many of the discrepancies identified by commenters are addressed simply by using the correct database.

We also reviewed other changes that the commenter recommended and made corrections to the database under the following two circumstances: when a process is subject to the HON so that only the batch process vent emissions are subject to subpart FFFF, and when a facility representative informed the commenter that a non-HON LDAR program or no program is implemented for a miscellaneous organic chemical manufacturing process. After making the revisions, we found 51 of 1,139 processes are controlled to the HON LDAR (i.e., the best-performing LDAR program in use at miscellaneous organic chemical manufacturing sources), or 4.5 percent controlled. Based on this result, we could not justify a MACT floor at the HON level of control.

Therefore, we reexamined the processes subject to other LDAR programs to develop a revised MACT