RESPONSE TO SIGNIFICANT PUBLIC COMMENTS

Received in response to

Proposed amendments to
National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
(70 FR 49530, August 24, 2005)

Docket Number OAR-2002-0057

US Environmental Protection Agency
Emissions Standards Division
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

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General Outline

1.0 INTRODUCTION AND BACKGROUND

2.0 RESPONSES TO COMMENTS RECEIVED

1.0 INTRODUCTION AND BACKGROUND

The purpose of this document is to provide EPA's responses to public comments received on the notice of proposed rulemaking (NPR), "National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production" (70 FR 49530, August 24, 2005). This action proposed amendments to the final rule (68 FR19076; April 17, 2003).

The opportunity for written and oral public comment on the proposed rulemaking was announced with the NPR. No public hearing was requested or conducted. The period for public comment on the NPR closed on October 24, 2005.

EPA received four comments on this proposed rulemaking. A listing of the commenters is provided below. A complete set of the public comments received is available as part of Docket EPA-HQ-OAR-2002-0057. This docket can be accessed at www.regulations.gov or through the U.S. EPA Docket Center, 1301 Constitution Avenue, NW, Washington, D.C., 20004 in the Public Reading Room, Room B102, EPA West Building, 8:30 a.m. through 4:30 p.m., Monday through Friday.

Commenter	Docket entry number
Arkema, Incorporated	EPA-HQ-OAR-2002-0057-0011
American Chemistry Council	EPA-HQ-OAR-2002-0057-0012
Dow Chemical Company	EPA-HQ-OAR-2002-0057-0013
Chlorine Institute	EPA-HQ-OAR-2002-0057-0014

A summary of the public comments received and EPA's responses is contained in this document. In this document, EPA has provided detailed responses only for those comments deemed to be significant. Other comments may be summarized and general responses provided.

2.0 RESPONSES TO COMMENTS RECEIVED

2.1 APPLICABILITY

Comment:

One commenter (OAR-2002-0057-0011) recommends that EPA need not include proposed 40 CFR 63.9000(c)(4) as proposed 40 CFR 63.9000(c)(5) is more inclusive and includes the conditions addressed in 40 CFR 63.9000(c)(4).

Response:

EPA agrees with the concept put forward by the commenter and has reworded paragraph (c)(4) to encompass the language currently in paragraphs (c)(4), (c)(5), and (c)(6).

2.2 RETESTING REQUIREMENTS

Comment:

Two commenters (OAR-2002-0057-0011; OAR-2002-0057-0014) request that EPA clarify the change provisions in proposed 40 CFR 63.9015(a) to explain that the provisions to retest process vent emissions should be tied to a change that could cause an increase in emissions rather than, as currently worded, "whenever process changes are made that could reasonably be expected to change the outlet concentration." A similar change was requested to the language in 40 CFR 63.9050(c)(9).

Response:

EPA agrees with the commenters and has made the suggested changes. This language is consistent with other rulemaking actions.

Comment:

One commenter (OAR-2002-0057-0011) requests that EPA define "temporary process changes" in proposed 40 CFR 63.9015(a) to be changes of less than one year in duration where the owner/operator believes that the source will continue to demonstrate compliance without changing the compliance demonstration method.

Response:

EPA disagrees with the commenter. As mentioned in the previous response, without emissions test data, no one can determine the effect of a change – temporary or not – on an existing facility. Moreover, the commenter errs by excluding the term "unintentional" in

discussing "temporary process changes." As written, the rule identifies "unintentional, temporary process changes" (emphasis added) as not being process changes. Surely a process change lasting up to one year could not be considered unintentional. Absent any information as to the length of time "unintentional temporary" process changes should or could last, we have not changed the regulation.

2.3 MONITORING OF pH

Comment:

One commenter (OAR-2002-0057-0013) believes that the requirement to measure the pH of the scrubber water as provided in 40 CFR 63.9020(e)(1) and Table 5 to subpart NNNNN is an inappropriate operational parameter and should be removed from the final rule. The commenter believes that monitoring the water flow of the scrubber is a sufficient measurement of scrubber performance, as seen during performance testing. The Pesticide Active Ingredient Production national standards for hazardous air pollutants (NESHAP; subpart MMM, 40 CFR 63.1366(b)(ii)) allows for either minimum liquid flow rate or pressure drop to be chosen as operating parameters during the period in which the scrubber is controlling HAP from an emission stream and only requires the measurement of pH if a caustic scrubber is being used. The commenter believes that a rule change is more efficient than going through the alternative monitoring request process.

Response:

EPA disagrees with the commenter's suggestion to replace monitoring of the scrubber water effluent pH with monitoring of the minimum liquid flow rate or pressure drop only. Apart from directly measuring HCl emissions, monitoring of the outlet pH of the scrubber water, as well as the water flow rate into the scrubber, provides the most complete depiction of parametric monitoring and best measure for process control. Parametric monitoring that provides a less certain depiction, and corresponding level of process control, would include scrubber water outlet pH monitoring and flow monitoring. The least-certain depiction, and corresponding level of process control, would arise from monitoring only the scrubber water flow. Although such least-certain monitoring may be appropriate under certain circumstances, sources subject to the HCl production NESHAP may rely on techniques other than once-through scrubber water use. In order not to prescribe any control technique, source owners or operators are able to choose an approach that works best for them.

The Pesticide NESHAP cited by the commenter differs from the HCl NESHAP and what is applicable for sources subject to the Pesticide NESHAP may not be relevant for sources subject to the HCl Production NESHAP. Further, the commenter fails to note that other NESHAP that regulate HCl emissions require the monitoring of effluent pH. A more comparable example is that of 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. In this NESHAP, where the HCl production process is very similar to that of the HCl Production NESHAP, monitoring of effluent pH is required whenever a wet scrubber, water or caustic, is used (see 40 CFR

63.1209(o)(3)(iv)).

EPA is unaware of any difficulty faced by source owners or operators subject to the HCl Production NESHAP in getting approval for alternative monitoring as suggested by the commenter. In fact, at least two HCl Production NESHAP source owners/operators have demonstrated a need for an alternative monitoring technique, requested approval for such technique, and received approval for that technique by the Regional offices.

2.4 ENGINEERING EVALUATIONS

Comment:

Two commenters (OAR-2002-0057-0014; OAR-2002-0057-0013) request that the provision allowing the use of engineering evaluations in lieu of emission testing, as proposed in 40 CFR 9020(e)(3), be amended to include process vents as well as the currently proposed allowance for storage tanks and transfer operations. The commenters note that EPA has historically allowed such assessments for process vents in other NESHAP (e.g., subpart GGG, National Emission Standards for Pharmaceuticals Production, 40 CFR 63.1258(b)(3)(i); subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production, 40 CFR 63.1365(c)(3)(i)(A); subpart PPP, National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production, 40 CFR 63.1426(f)) and continues to support the use of design evaluations (e.g., subpart FFFF, National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing, 40 CFR 63.2450(h)).

Response:

EPA disagrees with the commenters' suggestion. The standards cited by the commenters all deal primarily with organic HAP, with HCl occurring in more limited quantities, as opposed to the primacy of HCl emissions encountered in the HCl Production NESHAP. The commenters provide no data to support their contention about use of engineering evaluations in lieu of emissions testing for HCl and Cl_2 for the process vents. Design values as supplied by such engineering evaluations may be appropriate for small emitters (i.e., those below the NESHAP applicability level) as was done for at least some of the cited NESHAP, but substantial, uncontrolled emissions – such as those that could come from process vents - should be measured.

Again, EPA feels that a more comparable example is the Hazardous Waste Combustor NESHAP (40 CFR part 63, subpart EEE). In this standard (40 CFR 63.1207(m)), conservative engineering evaluations are allowed in lieu of emissions testing for sources that can comply with the emission standards assuming all chlorine in the feed is emitted as total chlorine ($HCl + Cl_2$) -- if the maximum theoretical emission concentration does not (cannot) exceed the emission standards, emissions testing is waived. However, HCl production furnaces could not comply with this waiver of the emission test because they rely on wet scrubbers/absorbers to produce HCl product and control emissions of HCl/Cl_2. We believe this situation is analogous to that

encountered in the HCl Production NESHAP where we have allowed engineering evaluations to be utilized for those emission sources that could possibly emit below the emission standard (i.e., the storage tanks and transfer operations) but have required emission testing for the emission sources that are not likely to emit below the standard without the use of a control device (i.e., the process vents).

2.5 COMPLIANCE DATE

Comment:

Two commenters (OAR-2002-0057-0014**,** OAR-2002-0057-0013) request that EPA clarify the deadline for compliance with the final rule and the dates when the initial reports are due in 40 CFR 63.9050(b)(1) and (2), believing that there could be confusion among the various entities affected by the rule concerning the submittal date for the first compliance report. They suggest that the rule language specifically state that January 31, 2007, is the date on which the first compliance report is due.

Response:

EPA agrees that the wording could be confusing and has added clarification to the language of the regulation to indicate that, for sources in existence on April 17, 2006, the initial compliance period ends June 30, 2006, and the initial compliance report is due on July 31, 2006.

2.6 PLANNED MAINTENANCE

Comment:

Two commenters (OAR-2002-0057-0011, OAR-2002-0057-0014) expressed concern about the planned maintenance advance notification requirements in proposed 40 CFR 63.9050(c)(10)(ii) in that planned maintenance schedules are subject to change with little or no notice. Commenter OAR-2002-0057-0011 believes that a facility could, in good faith, report advance plans of maintenance to the permit authority and EPA but then, due to an unforeseen change of plans, not conduct the planned maintenance on the proposed schedule or identify additional, required work that was not in the maintenance plan. The commenter believes that EPA should not establish a regulation where a decision required to respond to plant-specific conditions that have no impact on emissions becomes a regulatory enforcement matter. The commenter believes that EPA already has sufficient authority through the existing startup, malfunction, and shutdown (SSM) provisions to review such maintenance activities without requiring the additional reporting required by 40 CFR 63.9050(c)(10)(ii). The commenter requests that tracking of compliance with any needed notification requirements only be included in the required periodic reports (as proposed in 40 CFR 63.9050(c)(10)(i)) or that such reporting not be required unless a deviation of a monitoring condition or an exceedances of an emission limit occurs during the periodic reporting period. Commenter OAR-2002-0057-0014 believes that the proposed requirement is overly burdensome and unnecessary. Further, the commenter states that it is not aware of any other NESHAP that requires advance reporting of anticipated

planned routine maintenance activities on emission control devices.

Response:

EPA disagrees with the commenters. In adding this requirement, EPA was responding to concerns that the rule language was unclear on whether an HCl storage tank would need to be emptied before the associated control device could be disconnected for maintenance purposes. In the proposed amendments to the final rule, EPA provided language that allowed owners/operators to perform maintenance on each HCl storage tank for up to 240 hours per year without emptying the storage tank. During this period, the storage tank emissions would not apply. The notification requirement was included to ensure that the recipient of the periodic reports is aware of planned maintenance activities related to the HCl storage tanks, including the type of maintenance to be performed and the duration of the maintenance (which would be the length of time during which the emission standards would not apply). Further, EPA does not believe that an out-of-compliance period should suddenly become a "maintenance period." EPA does not see the dilemma the commenters believe themselves subject to. If a planned maintenance period does not occur, EPA sees no harm or liability for having reported it. EPA recognizes that planned maintenance activities may, on occasion, not occur as scheduled. In cases where an owner/operator had included planned maintenance in a periodic report but the maintenance did not occur, EPA would expect that the owner/operator would merely explain the situation in the next periodic report. EPA understands that occasionally additional unplanned maintenance needs are discovered in the course of a planned maintenance and believes that the regulations are sufficiently flexible to accommodate such circumstances. EPA believes that 240 hours is sufficient time to effect maintenance on HCl storage tank control devices. However, should planned maintenance on such devices require 240 or greater hours per year, the owner/operator would be required to drain the HCl storage tank or comply with the emission limits without the control device in-place.

2.7 WORK PRACTICE STANDARDS

Comment:

One commenter (OAR-2002-0057-0014) expressed concern about changes made to item 4 in Table 1 to subpart NNNNN where the term "and new" sources was added to the existing language. The Commenter believes that this change was not discussed in the preamble to the proposed amendments and that this addition significantly broadens the impact of the rule and should be justified.

Response:

Item 4 in Table 1 to subpart NNNNN in the final rule only addressed leaking equipment at existing sources. Items 1, 2, and 3 in Table 1 of the final rule addressed process vents, storage tanks, and transfer operations, respectively, at existing sources whereas items 5, 6, and 7 addressed these same operations at new sources. EPA acknowledges that it was an oversight in the regulatory language in the final rule to omit leaking equipment at new sources and, so, added

"and new" to the language of item 4 in the proposed amendments. EPA sees no reason to omit new sources from having to address leaking equipment and doesn't agree with the commenter's concern about this change "significantly" broadening the impact of the rule.