

set. Some commenters thought that control devices installed for sulfur oxides (SO_x) control (rather than for HAP control) should not be considered in the MACT floor. Other commenters felt that costs should be a consideration.

One commenter charged that EPA has simply set MACT floors based on control technology type and that EPA did not identify the relevant best performers and set floors reflecting their average emission level. The commenter noted that factors other than control device type affect emissions and that EPA must consider all non-negligible factors in setting MACT floors and considering beyond-the-floor measures. The commenter stated that if EPA believes it is unworkable to consider all factors, then perhaps EPA should base standards on actual emissions data which reflects all the factors influencing a source's performance. The commenter also noted that EPA picked the worst performance of any source that used the chosen technology to set the floor for PM.

A detailed discussion of how we determined the MACT floor for existing large tunnel kilns (*i.e.*, tunnel kilns with design capacities equal to or greater than 9.07 Mg/hr (10 tph)) is provided below. Although the discussion in the example below focuses on existing large tunnel kilns that exhaust directly to the atmosphere or to an APCD, the same MACT floor methodology was used for existing large tunnel kilns that exhaust to sawdust dryers prior to exhausting to the atmosphere, existing small tunnel kilns that exhaust directly to the atmosphere or to an APCD, existing small sawdust-fired tunnel kilns that duct to sawdust dryers, and existing periodic kilns. Details of these MACT floor determinations were discussed in the preamble to the proposed rule. (See 67 FR 47909–47912, July 22, 2002.) Section 112(d)(3) is the section of the CAA that dictates how we must establish MACT floors. Section 112(d)(3) of the CAA states that:

The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emission standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than—

(A) The average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), excluding those sources that have, within 18

months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time, in the category or subcategory for categories and subcategories with 30 or more sources * * *.

With the exception of the LAER provisions in section 112(d)(3)(A) of the CAA, the CAA requires us to base the MACT floor on the best-performing sources without consideration of why facilities decided to control emissions. Therefore, if an APCD is reducing HAP emissions (*e.g.*, HF, HCl, or HAP metals), it is irrelevant if sources installed APCD for SO_x or visible emissions control for purposes of conducting MACT floor determinations.

We determined the MACT floor control level for existing sources using the following general procedure:

- (1) We reviewed available data on pollution prevention techniques (including substitution of raw materials and/or fuels) and the performance of add-on control devices to determine the techniques that were viable for and effective at reducing HAP emissions;
- (2) For each subcategory, we ranked the kilns from the best performing to the worst performing based on the emission reduction technique used on the kilns;
- (3) For each subcategory, we then identified the 94th percentile kiln and the emission reduction technique that represented the MACT floor technology; and
- (4) For each subcategory, we then selected production-based or percent-reduction emission limits that correspond to the 94th percentile kiln and emission reduction technique, and we based our selections on the available data while considering variability in the performance of a given emission reduction technique.

To identify the best-performing emission reduction techniques, we reviewed available data on pollution prevention techniques (*i.e.*, substitution of raw materials and/or fuels) and the performance of add-on control devices. We determined that substitution of raw materials and/or fuels is not an option because substitution of raw materials and/or fuels could affect the ability of a facility to duplicate its current product line. In addition, it is impractical for facilities to import, from a distance of more than a few miles, the large amounts of raw material that are required (most facilities are located in close proximity to their raw material

source). With respect to use of low-HAP fuels, our available test data for the BSCP industry do not show identifiable differences in emissions based on kiln fuel type; that is, the contribution of raw materials to HAP emissions far outweighs the contribution of the fuels. In addition, fuel type can impact the color of a product, and any requirement that would require a kiln to change fuel type could cause the kiln to be unable to match an existing product line. While we agree that factors other than APCD type can affect emissions, we do not have the data to determine the specific degree of the effect of factors other than APCD on emissions, and we believe that, for the BSCP industry, factors other than APCD use are not viable MACT floor or beyond-the-floor control options. Our data show that add-on APCD have a large effect on emissions, and further show that the presence or absence of an APCD is likely the greatest factor in determining a BSCP kiln's actual performance. It follows that the subset of BSCP kilns that are the best performers are those with add-on APCD. Therefore, our analysis focused on the performance of add-on control devices.

Prior to proposal we concluded that the best-performing add-on control devices were DIFF, DLS/FF, and WS. Based on the comments received following proposal (as discussed elsewhere in this preamble) regarding retrofit concerns with these technologies, we now believe that DLA are the only currently available technology that can be used to retrofit existing large kilns without potentially significant impacts on the production process. Thus, DLA are the best-performing APCD for existing large tunnel kilns.

We ranked the kilns within each subcategory according to APCD use. Information on the number of kilns and the types of APCD was based primarily on responses to a survey of the industry and additional information gathered following the survey including public comments on the proposed rule. Equipment in use at major sources and synthetic minor sources was used in the equipment ranking. In accordance with section 112(d)(3)(A) of the CAA, equipment at kilns that achieved LAER less than 18 months before proposal was not included in the equipment ranking. When we ranked the large tunnel kilns, we treated kilns equipped with DLA as the best-controlled sources, although DIFF, DLS/FF, and WS also can achieve the level of performance of a DLA. We ranked the kilns by APCD rather than actual unit-specific emissions reductions because we do not have emissions test data for all kilns.