

kilns. One commenter noted the potential of existing kilns triggering new source requirements during reconstruction. The commenter requested that the ability of small businesses to overhaul existing kilns be addressed in the final rule.

These commenters have addressed several related issues including the selection of the best-controlled similar source, differences between small and large tunnel kilns, the feasibility of the proposed MACT-level controls in controlling emissions from smaller tunnel kilns or reconstructed tunnel kilns, and the costs of new controls. In responding to these comments, we have re-evaluated our analysis of MACT for new and reconstructed tunnel kilns. In the original MACT analysis developed for the proposed rule, we recognized the inherent differences between small and large tunnel kilns and established a subcategorization level of 9.07 Mg/hr (10 tph). The proposed 9.07 Mg/hr (10 tph) subcategorization level applied to both existing and new tunnel kilns. For new and reconstructed sources, we selected the best-controlled similar source (DIFF, DLS/FF, WS) that would be applied to all new sources regardless of size. In re-evaluating this analysis and in light of several comments that described the inherent differences and issues with the application of DIFF, DLS/FF, and WS control technologies to small tunnel kilns or reconstructed tunnel kilns, we have revised MACT for new sources. We also have added language in 40 CFR 63.8390(i) to provide that it is not technologically and economically feasible for two types of existing kilns that would otherwise meet the criteria for reconstruction under 40 CFR 63.2 to meet the relevant standards—*i.e.*, new source MACT—and that such kilns do not fall within the definition of reconstruction and are not subject to new source MACT requirements. The two types of kilns are existing small kilns that are rebuilt such that they become large kilns and existing large DLA-controlled tunnel kilns that are rebuilt. Today's final emission limits for those kilns and for new and reconstructed small tunnel kilns are based on the performance of DLA control technology. The final emission limits for new large tunnel kilns are based on the performance of DIFF, DLS/FF, and WS control technology. In addition, existing large tunnel kilns equipped with DIFF, DLS/FF or WS are reconstructed sources subject to new source MACT requirements if they meet the criteria for reconstruction in 40 CFR 63.2. Such kilns must continue to meet new source

MACT limits, which are based on the performance of DIFF, DLS/FF, and WS.

We agree with the commenters that DIFF, DLS/FF, and WS control technologies have not been demonstrated on small kilns. However, we believe that the 9.07 Mg/hr (10 tph) size represents the threshold where emission control using DIFF, DLS/FF, or WS is technically feasible and demonstrated. Smaller kilns have smaller airflow rates than larger kilns and any fluctuations in airflow rates can have a significant impact on the ability of DIFF, DLS/FF, or WS to operate correctly. For new and reconstructed small kilns, the DLA control technology has been demonstrated to perform adequately despite the lower airflow rates; DLA control systems are not as sensitive to airflow changes as DIFF, DLS/FF, or WS control systems. In addition, existing small kilns that are rebuilt such that they become large kilns and existing large DLA-controlled kilns that are rebuilt would experience the same types of retrofit problems that we described for existing tunnel kilns, and we believe that such tunnel kilns should be subject to requirements that can be met with a DLA. The DIFF, DLS/FF, and WS control systems have been demonstrated on new large kilns. Therefore, MACT for new and reconstructed large tunnel kilns is based on DIFF, DLS/FF, and WS control and is unchanged from proposal. Finally, the determination of MACT for new sources at the floor does not take the cost of control into consideration.

Our revised standards for new and reconstructed small tunnel kilns, existing small kilns that are rebuilt such that they become large kilns, and existing large DLA-controlled kilns that are rebuilt are based on the use of a DLA, which is considerably less expensive than the other MACT controls. The revised standards should minimize the commenters' concerns over the costs of reconstructing older kilns.

#### *E. Cost and Economic Impacts*

Numerous comments were received regarding costs of the proposed rule. Commenters contended that EPA did not consider the full costs of the rule (*e.g.*, costs associated with problems retrofitting existing kilns). In general, commenters indicated that the economic impacts to brick industry would be severe. Several commenters pointed out that the brick industry is losing market share to cheaper building materials (*e.g.*, vinyl) that are more detrimental to the environment. The commenters stated that the proposed rule would have a negative effect on the

future of many small businesses and the communities where they are located. The commenters expressed concern that the proposed rule would limit the opportunity for continued operation or expansion of brick plants throughout the U.S. The commenters noted that increased production costs would increase brick prices, causing brick to become less competitive with other materials and brick imports to rise, putting small U.S. companies out of business. Several commenters stated that the costs of the rule as proposed would prevent their company from ever replacing, performing a major repair on, or upgrading their existing kiln. Some commenters stated that the rule as proposed would eventually cause their company to go out of business. Some commenters added that they live in an economically depressed area and other jobs are not readily available.

One commenter disagreed with the Administrator's certification that the proposed rule would not create a significant impact on a substantial number of small entities. The commenter submitted an Economic Impacts Analysis (EIA). The commenter calculated and presented the Sales Test, Cash Flow Test, and Profit Test criteria which the commenter believes shows a greater number of small businesses at risk than does EPA's EIA. In addition, the commenter provided several specific comments on EPA's EIA. The commenter argued that the rule as proposed is a significant rulemaking per Executive Order (E.O.) 12866. A few commenters provided specific comments on the monitoring, reporting, and recordkeeping costs in the Office of Management and Budget (OMB) 83-I form and supporting statement.

Commenters also questioned the environmental benefits of the BSCP rule as proposed. One commenter questioned why the BSCP rule is necessary if brick manufacturing emissions are not causing public health problems or adverse environmental effects. Another commenter argued that there is no epidemiological evidence that anyone in North America has been harmed by brick plant HF emissions and that cancer incidence in brick plant workers is not higher than for the general population.

As previously mentioned in this preamble, section 112(b) of the CAA contains a list of HAP identified by Congress and authorizes EPA to add to that list pollutants that present or may present a threat of adverse effects to human health or the environment. Section 112(c) of the CAA requires us to list all categories and subcategories of major and area sources of HAP and to