

and the HCl production industry tanks. We first determined that there is a large size differential between the tanks used by the semiconductor industry and those used by the HCl production industry. The largest reported semiconductor industry storage tank was 16,000 gallons, and most were less than 10,000 gallons. In contrast, most of the storage tanks reported by the HCl production industry ranged from 200,000 gallons to over 2 million gallons. We then determined that the HCl stored by the semiconductor industry was often diluted, while the HCl production industry almost exclusively stored concentrated HCl. Based on the larger tank size and the higher concentration of material stored, the emission streams from the HCl production industry storage tanks will have a considerably higher pollutant concentration than from the semiconductor industry storage tanks. We believe this is a more important consideration when establishing emission limits than simply looking at the similarity of the material stored. Thus, we expect that the emissions streams from the semiconductor manufacturing industry storage tanks will have a very low concentration of pollutants.

Since the semiconductor industry storage tank emission streams will have similar characteristics to those of process vents (*i.e.*, low pollutant concentration), we now believe the most representative similar sources for evaluating the MACT floor for storage tanks are the semiconductor industry process vents. Therefore, in response to the comments concerning our use of HCl production industry storage tanks as the most representative similar source, we are adopting the process vent inorganic HAP emission limits for storage tanks in the final rule.

We also agree that we should have given further consideration to controls more stringent than the MACT floor for storage tanks less than 800 gallons (now 1,500 gallons in the final rule as discussed below) and wastewater treatment tanks. The MACT floor for both of these types of tanks was determined to be no control. However, controls more stringent than the MACT floor (*i.e.*, scrubbers) are technically feasible as demonstrated by the data provided by the industry on tanks greater than 1,500 gallons.

In order to include emission limits more stringent than the MACT floor level of control in the final rule, they must be feasible on both a technical and cost basis. Technical feasibility is assumed based on similar control on larger tanks as reported by the industry.

To evaluate cost feasibility, we estimated the HAP emissions from a 1,500 gallon tank containing concentrated HCl, assuming one complete turnover per day. These parameters will result in the maximum amount of HAP emissions from the tank that we would expect for the semiconductor manufacturing industry. We then estimated the cost of a scrubber to control these emissions by 99 percent. Finally, we calculated the cost per ton of additional HAP emission reduction achieved above the MACT floor level of control, which was more than \$285,000 per ton. Based on this result, we considered this level of control to be infeasible on a cost basis and did not require emission control more stringent than the MACT floor for storage tanks less than 1,500 gallons or wastewater treatment tanks in the final rule.

We made an additional change for the final rule based on our revised storage tank MACT floor analysis. Because we eliminated several tanks from the data set used in the MACT floor analysis, the cutoff for the smallest size tank for which the final rule applies increased from 800 gallons to 1,500 gallons.

While the storage tanks that were used to establish the MACT floor level of control stored either HCl or HF, we believe this level of control is applicable to any material stored by a semiconductor manufacturing facility. Therefore, we do not believe that the emission limits must necessarily be limited to these two chemicals, as suggested by one of the commenters.

In our final analysis, we determined that the level of control already existing on waste storage tanks regulated under RCRA is equivalent to the storage tank MACT floor level of control. We also determined that the MACT floor for wastewater treatment tanks was no emissions reduction. Accordingly, we excluded both types of tanks from any requirements in the final rule. We added the following definition (based on the definition of "tank" in 40 CFR 63.901, (subpart OO—National Emission Standards for Tanks-Level 1) and 40 CFR 63.1101 (subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards)) for "storage tank" to 40 CFR 63.7195 that clarifies which tanks we intended to be covered under the final rule: *Storage tank* means a stationary unit that is constructed primarily from nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provides structural support and is designed to hold an accumulation of liquids or other

materials used in or generated by a semiconductor manufacturing process unit. The following are not storage tanks for the purposes of the final rule:

- Tanks permanently attached to motor vehicles such as trucks, railcars, barges, or ships;
- Flow-through tanks where wastewater undergoes treatment (such as pH adjustment) before discharge, and are not used to accumulate wastewater;
- Bottoms receiver tanks; and
- Surge control tanks.

Comment: One commenter reiterated a previous request for EPA to delist the Semiconductor Manufacturing source category and provided information to support their request. The commenter claimed that this information shows that there will be no stand alone semiconductor manufacturing facilities. Therefore, since EPA listed this category on the MACT source category list at a time when there were stand alone facilities that were major sources, the basis for listing the category no longer exists. The commenter cited the preamble language from the initial source category listing notice (57 FR 31576, July 16, 1992) and the first notice revising the list (61 FR 28200, June 4, 1996) to support their interpretation of when a category should be included on the source category list. The commenter stated that if a stand alone major source did come into existence in the future, EPA could promulgate a MACT standard at that time. Additionally, the commenter pointed out that case-by-case MACT determinations under section 112(g) of the CAA could also be used to control emissions from such a source.

The commenter also pointed to other EPA actions to support their position. The commenter noted that EPA guidance issued after the National Mining Association court case (*National Mining Association v. U.S. EPA*, 59 F.3d 1351 (D.C. Cir. 1995)) states that section 112(d) standards should be applied to source categories that contain stand alone major sources or that have sources "commonly located" at major source facilities. The commenter also noted that EPA, in promulgating MACT standards for industrial process cooling towers (IPCT), had found that co-location of an IPCT on a major source site is not sufficient to trigger applicability of the rule, rather, the IPCT must be co-located and an integral part of the facility.

The commenter disagreed with EPA's interpretation that a source category delisting can proceed only under section 112(c)(9) of the CAA. The commenter believed that EPA has a non-discretionary duty under section