

sources (67 FR 44672) and the emissions of chlorine and HCl from both non-mercury cell chlorine production subcategory sources and mercury chlor-alkali plant subcategory sources (67 FR 44713).

C. What Criteria Are Used in the Development of NESHAP?

Section 112(d)(2) of the CAA specifies that NESHAP for new and existing sources must reflect the maximum degree of reduction in HAP emissions that is achievable, taking into consideration the cost of achieving the emissions reductions, any non-air quality health and environmental benefits, and energy requirements. This level of control is commonly referred to as MACT.

Section 112(d)(3) defines the minimum level of control or floor allowed for NESHAP. In essence, the MACT floor ensures that the standards are set at a level that assures that all affected sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy impacts.

The CAA includes exceptions to the general statutory requirement to establish emission standards based on MACT. For pollutants for which a threshold has been established, section 112(d)(4) allows us "to consider such threshold level, with an ample margin of safety, when establishing emissions standards. * * *."

D. What Actions Were Proposed for This Source Category?

As discussed above, we divided the chlorine production source category into mercury cell chlor-alkali plants, and chlorine production plants that do not rely upon mercury cells for chlorine production (non-mercury cell chlorine

production). On July 3, 2002, we proposed one action to address mercury emissions from the mercury cell chlor-alkali plant subcategory, and a separate action to address chlorine and HCl emissions from both subcategories.

For mercury emissions from mercury cell chlor-alkali plant subcategory sources, we issued a proposed rule based on MACT (67 FR 44672). Comments were received on the proposed rule and today's action issues the final rule for the mercury emissions from the mercury cell chlor-alkali plant subcategory.

We also proposed not to regulate chlorine and HCl emissions from both the mercury cell chlor-alkali plant and non-mercury cell chlorine production subcategories under our authority in section 112(d)(4) of the CAA (67 FR 44713). We based this decision on our determination that no further control is necessary because chlorine and HCl are "health threshold pollutants," and chlorine and HCl levels emitted from chlorine production processes are below their threshold values within an ample margin of safety. The basis for the determination was a series of site-specific risk assessments for every chlorine production facility in the United States that was located at a major source plant site. In addition, we concluded, using a qualitative evaluation, that chlorine and HCl emissions from these chlorine production facilities did not result in adverse environmental effects. Background for this action is contained in Docket OAR-2002-0016 or Docket A-2002-09. Public comments on the proposed action were received, and we are finalizing actions addressing chlorine and HCl emissions in today's **Federal Register**. In today's final action, we are utilizing our authority under section 112(d)(4) not to regulate chlorine and HCl emissions from the mercury cell chlor-alkali plant subcategory. Final action addressing the emissions of chlorine and HCl from the non-mercury cell chlorine production subcategory is contained elsewhere in today's **Federal Register**.

E. How Did the Public Participate in Developing the Rulemaking?

Prior to proposal, we met with industry representatives and State regulatory authorities several times to discuss the data and information used to develop the proposed standards. In addition, these and other potential stakeholders, including equipment vendors and environmental groups, had opportunity to comment on the proposed standards.

The proposed rule was published in the **Federal Register** on July 3, 2002 (67 FR 44672). The preamble to the proposed rule discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal.

We received nine public comment letters on the proposed rule (two of which were received well after the close of the comment period). The commenters represent the following affiliations: Mercury cell chlor-alkali companies, industrial trade associations, environmental/conservation organizations, and a women's advocacy organization. In the post-proposal period, we talked with commenters and other stakeholders to clarify comments and to assist in our analysis of the comments. Records of these contacts are found in Docket OAR-2002-0017 or Docket A-2000-32. All of the comments have been carefully considered, and, where appropriate, the final rule has been written to so reflect.

The proposed action not to regulate chlorine and HCl emissions was published in the **Federal Register** on July 3, 2002 (67 FR 44713). The preamble to the proposed action discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal.

We received eight public comment letters on the proposed action. The commenters represent the following affiliations: Industry representatives, governmental entities, and environmental groups. In the post-proposal period, we talked with commenters and other stakeholders to clarify comments and to assist in our analysis of the comments. Records of these contacts are found in Docket OAR-2002-0016 or Docket A-2002-09. All of the comments have been carefully considered.

F. What Is a Mercury Cell Chlor-alkali Plant?

Today's NESHAP apply to mercury emissions from mercury cell chlor-alkali plants. Mercury cells are considerably larger than other types of chlor-alkali cells. A mercury cell plant typically has scores of individual cells (around 60 feet long and 9 feet wide) housed in one or more cell buildings. Mercury cells are electrically connected together in series with circuits of 30 or more cells.

In the mercury cell process, each cell actually involves two distinct operations. The electrolytic cell