

financial transactions”) is a useful starting point. This definition incorporates two key concepts: (1) Formality of the business relationship, and (2) regularity of dealings. In light of these concepts, FinCEN solicits comments as to whether (and to what extent) travel agencies maintain accounts for their customers. If so, what kinds of services do travel agencies provide to account holders? Are these account relationships ongoing? Are accounts established to receive recurring payments from a customer, or are additional services provided to the accountholder?

### III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of sections 352 and 326 of the Act with respect to travel agencies. FinCEN welcomes comments on all aspects of potential regulation and encourages all interested parties to provide their views.

### IV. Executive Order 12866

Because this is an ANPRM, FinCEN does not know whether or in what form it may issue a regulation pursuant to sections 352 and 326 of the Act affecting travel agencies. Accordingly, FinCEN does not know whether potential regulations will constitute a significant regulatory action under the Executive Order. This ANPRM neither establishes nor proposes any regulatory requirements. FinCEN has submitted a notice of planned regulatory action to OMB for review. Because this ANPRM does not contain a specific proposal, information is not available with which to prepare an economic analysis. FinCEN will prepare a preliminary analysis if it proceeds with a proposed rule that constitutes a significant regulatory action.

Accordingly, FinCEN solicits comments, information, and data on the potential effects of any potential regulation. FinCEN will carefully consider the costs and benefits associated with this rulemaking.

Dated: February 12, 2003.

**James F. Sloan,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 03-4172 Filed 2-21-03; 8:45 am]

**BILLING CODE 4810-02-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MI80-01-7289b, FRL-7443-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Michigan; Excess Emissions During Startup, Shutdown or Malfunction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve several rule revisions for incorporation into Michigan’s State Implementation Plan (SIP). The Michigan Department of Environmental Quality (MDEQ) submitted these revisions to EPA on September 23, 2002. They include rules to address excess emissions occurring during startup, shutdown or malfunction, as well as revisions to related definitions. In the Final Rules section of this **Federal Register**, EPA is approving the state’s SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule, we plan to take no further action in relation to this proposed rule. If we receive significant adverse comments, in writing, which we have not addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** EPA must receive written comments on or before March 26, 2003.

**ADDRESSES:** Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D’Agostino at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D’Agostino, Environmental

Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767.

#### Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: January 9, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 03-4261 Filed 2-21-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[FRL-7453-1; Docket ID No. OAR-2002-0046]

RIN 2060-AJ53

#### Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; amendments.

**SUMMARY:** On March 27, 2000, the EPA issued a memorandum which stated that process tanks are “storage vessels” under the definition in the Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. On May 26, 2000, the American Forest and Paper Association (AF&PA) filed a petition for judicial review of the March 27, 2000 memorandum. The EPA is proposing to amend the standards to address the issues raised by AF&PA in its petition for review. The EPA is also proposing to amend the standards to exempt storage vessels that are subject to the National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production. **DATES:** The EPA will accept comments regarding this proposal on or before March 26, 2003.

**ADDRESSES:** *Mail.* Send your comments to: Air Docket, U.S. EPA, Mailcode: 6102T, Room B108, 1200 Pennsylvania Ave, NW., Washington, DC, 20460, Attention Docket ID No. OAR-2002-0046.

*Hand Delivery or Courier.* Deliver your comments to: Air Docket, U.S. EPA, 1301 Constitution Avenue, NW., Room B108, Mail Code: 6102T, Washington, DC 20004, Attention Docket ID No. OAR-2002-0046.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Morris, Organic Chemicals Group, Emission Standards Division (Mail Code C504-04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5416, electronic mail address [morris.mark@epa.gov](mailto:morris.mark@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* The regulated category and entities affected by this action include:

Category	NAICS code	Examples of regulated entities
Industrial .....	325 .....	Chemical manufacturing facilities.
	324 .....	Petroleum and coal products manufacturing facilities
	424710 .....	Petroleum bulk stations and terminals.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, *etc.*, is regulated by this action, you should carefully examine all of the applicability criteria in § 60.110b of the standards, as well as in the proposed amendments to the applicability sections contained in this proposal. If you have questions regarding the applicability of these amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*Docket.* The EPA has established an official public docket for this action under Docket ID No. OAR-2002-0046. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket

Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

*Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. An electronic version of the public docket is available through the EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in the EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in the EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in the EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in the EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility. The EPA intends to work toward providing electronic access to all of the publicly available docket materials through the EPA's electronic public docket.

For public commenters, it is important to note that the EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in the EPA's electronic public docket as the EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When the EPA identifies a comment containing copyrighted material, the EPA will provide a reference to that material in the version of the comment that is

placed in the EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to the EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in the EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in the EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about the EPA's electronic public docket, visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

*Comments.* You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by the EPA, include Docket ID No. OAR-2002-0046 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." The EPA is not required to consider these late comments.

*Electronically.* If you submit an electronic comment as prescribed below, the EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows the EPA to contact you in case the EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that the EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in the EPA's electronic public docket. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

*EPA Dockets.* Your use of the EPA's electronic public docket to submit comments to the EPA electronically is the EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/> and follow the online instructions for

submitting comments. To access the EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OAR-2002-0046. The system is an "anonymous access" system, which means the EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

**E-mail.** Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, Attention Docket ID No. OAR-2002-0046. In contrast to the EPA's electronic public docket, the EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through the EPA's electronic public docket, the EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by the EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in the EPA's electronic public docket.

**Disk or CD ROM.** You may submit comments on a disk or CD ROM to the mailing address in the **ADDRESSES** section. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

**Facsimile.** Fax your comments to: (202) 566-1741, Attention Docket ID No. OAR-2002-0046.

**Confidential Business Information.** Do not submit information that you consider to be CBI electronically through the EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Attention: Mr. Mark Morris, c/o OAQPS Document Control Officer (Mailcode C404-02), U.S. EPA, Research Triangle Park, NC, 27711, Attention Docket ID No. OAR-2002-0046. You may claim information that you submit to the EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and the EPA's electronic public

docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**Outline.** The information presented in this preamble is organized as follows:

- I. What standards are we proposing to amend and how does this action relate to the overall scope of the subpart Kb rule?
- II. Why are we proposing amendments to the standards and what amendments are we proposing?
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
  - H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act

### **I. What Standards Are We Proposing to Amend and How Does This Action Relate to the Overall Scope of the Subpart Kb Rule?**

We are proposing to amend various provisions in 40 CFR part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. In doing so, we are indicating by necessary implication that subpart Kb applies to all industries where volatile organic liquid (VOL) (as defined in § 60.111b(k)) is stored, and thus applies to industries in addition to the petroleum and synthetic organic chemical manufacturing industries.

The EPA proposed the subpart Kb rules on July 23, 1984 (49 FR 29698) and promulgated them on April 8, 1987 (52 FR 11420). The standards implement section 111 of the Clean Air Act (CAA) and are based on the Administrator's determination that VOL storage vessels cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. Section 111 of the CAA requires that the EPA publish a list of

major stationary sources of air pollution (priority list) and to establish standards reflecting the performance of the best system of emissions reductions (taking cost and non-air environmental impacts into account) which is adequately demonstrated for the new sources in that listed source category.

Subpart Kb indicates on its face that it applies to all industries where VOL storage vessels are located and is not limited to the petroleum industry and the synthetic organic chemical manufacturing industry (SOCMI). Thus, the applicability to affected sources is comprehensive (§ 60.110b(a)), except for enumerated exceptions, some of which are to non-SOCMI, non-petroleum sources (such as coke oven by-product plants). If the rule only applied to SOCMI and petroleum sources, of course, it would have been unnecessary for the EPA to have crafted the enumerated exceptions.

The history of the section 111 priority list with respect to VOL storage vessels likewise demonstrates that the scope of subpart Kb includes non-SOCMI, non-petroleum industries. The EPA listed the synthetic organic chemical manufacturing industry on August 21, 1979 (44 FR 49222), including a subcategory for SOCMI storage vessels and handling equipment. The EPA, however, formally amended the section 111 priority list at the same time (April 8, 1987) it promulgated subpart Kb to include storage vessels that are not in SOCMI service, renaming the subcategory Volatile Organic Liquid (VOL) Storage Vessels and Handling Equipment.

Regulatory history likewise confirms what is facially apparent: the subpart Kb rules apply to all storage vessels (subject to enumerated exceptions) storing VOL. For example, the preamble to the proposed subpart Kb stated that there are storage vessels emitting volatile organic compounds located at plants not in SOCMI, such as liquid bulk storage terminals, that store the same or similar liquids as those at SOCMI plants and that can be controlled with the same effectiveness, costs, and control technology as storage vessels located at SOCMI plants (49 FR 29700).

The EPA intended to achieve emissions reductions beyond those available from controlling emissions from SOCMI vessels by extending regulation to these non-SOCMI storage vessels (49 FR 29700). The EPA estimated that in 1977, volatile organic compound emissions from storage vessels not located at SOCMI plants were 13,230 megagrams per year (Mg/yr), compared to 24,570 Mg/yr from SOCMI storage vessels.

In sum, based on the text of the regulation, the history of the regulation, and the EPA's contemporaneous action to expand the priority list, the EPA interprets subpart Kb to apply to all storage vessels (subject to enumerated exceptions) including but not limited to those located at SOCOMI plants and those not located at SOCOMI plants.

## II. Why Are We Proposing Amendments to the Standards and What Amendments Are We Proposing?

*Background.* In subpart Kb, "storage vessel" is defined as "each tank, reservoir, or container used for the storage of volatile organic liquids," excluding subsurface caverns and porous rock reservoirs, and components not directly involved in the containment of liquids or vapors, such as frames and auxiliary supports (40 CFR 60.111b). A specific issue presented for purposes of this proposal is whether the definition applies to process tanks, which are intermediate tanks within a process that are not used for the storage of raw materials or the product(s) of the process.

The EPA has issued two formal interpretations addressing this question. In an October 29, 1998 letter from the EPA's Office of Enforcement and Compliance Assurance (OECA) to the AF&PA, the EPA stated that the definition of "storage vessel" in subpart Kb does not include "flow-through process tanks," defined in the Underground Storage Tank Program (40 CFR 280.12) as tanks that form an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process, and that are not used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

After further evaluation, however, the EPA determined (post-issuance) that the interpretation given in the letter to AF&PA was not the best reading of the rule and that the definition of "storage vessel" in subpart Kb does not exclude process tanks. This interpretation appears in a March 27, 2000 memorandum (2000 Memorandum) from OECA to EPA Region IV.

The EPA continues to believe, as a purely interpretive issue, that the 2000 Memorandum is the better reading of the current rule. For example, there is no mention of intermediate or process tanks in the regulatory text of subpart Kb. The definition of "storage vessel" in subpart Kb is broad and does not specify that only raw material and product

tanks are included. Aside from the exclusions specifically mentioned in the definition of "storage vessel," the only language that limits the applicability of subpart Kb is in § 60.110b(d), which lists vessels to which subpart Kb does not apply (for example, vessels at coke oven by-product plants and vessels located at gasoline service stations). The regulatory history also tends to support the 2000 Memorandum.

On May 26, 2000, the AF&PA filed a petition for judicial review of the 2000 Memorandum in the U.S. District Court of Appeals for the District of Columbia (*AF&PA v. EPA*, No. 00-1218). The petitioner felt that the EPA had inappropriately expanded the scope of "storage vessels" with the interpretation in the 2000 Memorandum.

On August 23, 2001 (66 FR 44342), AF&PA and the EPA signed a settlement agreement which provides that the EPA will propose to amend subpart Kb to exclude from its applicability storage vessels that have a capacity less than 75 cubic meters (m<sup>3</sup>) or that contain a liquid with a maximum true vapor pressure below 3.5 kilopascals (kPa), and take final action on that proposal within a reasonable time. Today's proposed amendments fulfill the agreement to propose these amendments to subpart Kb.

Today's proposed amendments also address concerns raised by parties other than the petitioner. One party commented that in addition to the proposed amendments required by the settlement agreement, the EPA should exempt process tanks from subpart Kb. Another party commented that the regulatory overlap between subpart Kb and the National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production (40 CFR part 63, subpart GGGG) should be addressed.

*Proposal to Exempt Certain Storage Vessels by Capacity and Vapor Pressure.* The EPA believes that limiting the rule's applicability by vessel size and vapor pressure is reasonable and does not undermine the rule's fundamental basis as reflecting the best system of emissions reductions for volatile organics in storage vessels, taking cost, non-air impacts, and energy into consideration. Presently, subpart Kb does not apply to storage vessels with a capacity less than 40 m<sup>3</sup>. However, the only requirements that apply to storage vessels with a capacity less than 75 m<sup>3</sup>, to storage vessels with a capacity between 75 and 151 m<sup>3</sup> storing liquid with vapor pressure less than 15 kPa, and to storage vessels with a capacity equal to or greater than 151 m<sup>3</sup> storing liquid with vapor pressure less than 3.5

kPa, is minimal recordkeeping (40 CFR 60.110b(b) and (c)). The EPA in essence is proposing to eliminate these recordkeeping requirements in today's proposal. Put another way, the EPA is proposing to exempt from subpart Kb those storage vessels presently subject to recordkeeping requirements only.

Today's proposed amendments to increase the vessel capacity applicability cutoff and to include vapor pressure applicability cutoffs, thus, reduce the burden on sources without sacrificing emissions reductions. As explained above, increasing the vessel capacity applicability cutoff from 40 m<sup>3</sup> to 75 m<sup>3</sup> would decrease the number of sources affected by subpart Kb, but no emissions reductions would be lost because emission control is required only on vessels larger than 75 m<sup>3</sup>. The proposed vapor pressure applicability cutoffs of 3.5 kPa and 15.0 kPa would also decrease the number of affected sources, but, again, no emissions reductions would be lost because emission control is required only for liquids with vapor pressures of at least 5.2 kPa and 27.6 kPa, respectively (40 CFR 60.112b(a)).

*Proposal to Exempt Process Tanks.* The EPA is also proposing to exempt process tanks from subpart Kb. If the EPA were writing on a blank slate, the EPA would take the view that the better reading of subpart Kb is that process tanks are within the scope of the regulation, as explained earlier. However, the EPA is not writing on a blank slate. The 1998 interpretation of the rule was definitive (in the sense that it was intended to set out the EPA's view and was written by an entity within the EPA with authority to do so), and as such, can only be changed after notice-and-comment rulemaking (see *Paralyzed Veterans of America v. D.C. Arena L.P.*, 117 F. 3d 579, 586-87 (D.C. Cir. 1997)). That interpretation thus sets out the current scope of the rule with respect to process tanks, the 2000 Memorandum notwithstanding. The question, therefore, becomes whether it is justified to amend subpart Kb to include process tanks within its scope. Moreover, such a rule would apply only to new sources, that is, only to those process tanks for which construction, reconstruction, or modification commenced after the date of proposal of the action (see CAA sections 111(a)(2) and (b)(1)(B)).

The data used in the initial development of subpart Kb indicate that if process tanks were exempted, then about 4 percent of new tanks may go uncontrolled that would otherwise have to be controlled. However, there are several reasons why the actual amount

of potentially foregone emissions reductions is less and possibly even zero. First, because process tanks are small, and tank emissions generally are proportional to tank size, emissions from these tanks will be correspondingly small. Further, process tanks are, in many cases, required to be controlled under the national emission standards for hazardous air pollutants that affect the industries with most of the VOL tanks.

Considering all these factors, the EPA believes that it would not be worthwhile to now propose to include process tanks under subpart Kb. Although one would come to this same result based on the 1998 interpretation, in light of confusion due to the conflicting interpretations in the 1998 and 2000 Memoranda, the EPA is today proposing to amend subpart Kb to exempt process tanks to codify the 1998 position.

*Proposal to Exempt Storage Vessels Subject to the Vegetable Oil National Emission Standards for Hazardous Air Pollutants (NESHAP).* The EPA is also proposing to exempt from subpart Kb all storage vessels that are subject to the Vegetable Oil Production NESHAP. In most NESHAP, where there are existing standards that apply to the same emission points, the NESHAP usually include provisions which exempt the emission points from the existing standards and make the emission points subject only to the NESHAP. The Vegetable Oil Production NESHAP do not include any of these "overlap" provisions, and we are proposing here to rectify that omission.

The Vegetable Oil Production NESHAP contain a sourcewide emission limit in the form of the amount of hazardous air pollutant emissions per ton of oilseed processed. Since the limit is sourcewide, there are no requirements to control specific emission points. Consequently, a storage vessel that must be controlled under subpart Kb is not required to be controlled under the Vegetable Oil Production NESHAP.

According to information used in the development of the Vegetable Oil Production NESHAP, there are approximately 300 storage vessels in the source category. Sixty-four percent of these vessels have a capacity less than 75 m<sup>3</sup> and, therefore, would not be subject to subpart Kb because of today's proposed amendment to exempt such vessels.

Thirty percent of the vessels in the Vegetable Oil Production source category have a capacity between 40 and 75 m<sup>3</sup>. The vapor pressure at which control is required for vessels in this size range under subpart Kb is 27.6 kPa. The main solvent used in vegetable oil

production is n-hexane, which has a vapor pressure significantly below 27.6 kPa. Therefore, the EPA expects that no vessels in this size range would be subject to the control requirements of subpart Kb because the vessels do not store a liquid with a vapor pressure which exceeds 27.6 kPa. Moreover, many of these vessels are controlled by routing the emissions to a solvent recovery system.

The remaining 6 percent of vessels in the Vegetable Oil Production source category have a capacity larger than 75 m<sup>3</sup> and would be required to be controlled under subpart Kb (assuming they are new sources for purposes of subpart Kb) because the vapor pressure of n-hexane exceeds the vapor pressure at which control is required for large vessels. Since these vessels are large, they are even more likely to be routed to a solvent recovery system, and the EPA has information indicating that all large tanks are either currently controlled in this manner or will be controlled in the near future to comply with the Vegetable Oil Production NESHAP.

The EPA, thus, contends that the overall emissions to the environment would not increase by exempting vessels from subpart Kb that are subject to the Vegetable Oil Production NESHAP, and that such exemption essentially amounts to avoiding duplicative regulation. The EPA is, therefore, proposing to exempt from subpart Kb all storage vessels that are subject to the Vegetable Oil Production NESHAP.

### III. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the proposed rule amendments are not a "significant regulatory action" under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

#### B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action exempts certain sources from 40 CFR part 60, subpart Kb. Therefore, it is likely that this action could only reduce the information collection burden. The OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060-0074 (EPA ICR No. 1132.06).

Copies of the ICR document(s) may be obtained from Susan Auby, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, by email at [auby.susan@epa.gov](mailto:auby.susan@epa.gov), or by calling (202) 566-1672. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. Include the ICR or OMB number in any correspondence.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 324 or 325 that has up to 500 employees; (2) a small business in NAICS code 424710 that has up to 100 employees; (3) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (4) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the proposed amendments impose no additional regulatory requirements on owners or operators of affected sources. In fact, the proposed amendments should decrease the impacts on small businesses because the proposed amendments exempt some sources from regulation.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable

number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The proposed rule amendments exempt certain sources from regulation. Thus, today's proposed rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

### E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires the EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The proposed rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule amendments exempt

certain sources from regulation. The proposed rule amendments impose no additional burden on sources, and the emissions reductions lost because of the proposed exemptions are not significant. Thus, Executive Order 13132 does not apply to the proposed rule amendments.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on these proposed amendments from State and local officials.

### F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The proposed rule amendments do not have tribal implications, as specified in Executive Order 13175. The proposed rule amendments exempt certain sources from regulation. The proposed rule amendments impose no additional burden on sources, and the emissions reductions lost because of the proposed exemptions are not significant. Thus, Executive Order 13175 does not apply to the proposed rule amendments.

The EPA specifically solicits additional comment on the proposed rule amendments from tribal officials.

### G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. Today's proposed amendments are not subject to Executive Order 13045 because they are

based on technology performance, not health or safety risks. Furthermore, the proposed rule amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

The proposed rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 14, 2003.

Christine Todd Whitman, Administrator.

For the reasons set out in the preamble, part 60 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401-7601.

Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984

- 2. Section 60.110b is amended by:
a. Revising paragraphs (a) and (b);
b. Removing paragraph (c);
c. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d); and
d. Adding paragraph (d)(8).

The revisions and addition read as follows:

§ 60.110b Applicability and designation of affected facility.

(a) Except as provided in paragraphs (b) and (c) of this section, the affected facility to which this subpart applies is each storage vessel with a capacity greater than or equal to 75 cubic meters (m³) that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification is commenced after July 23, 1984.

(b) This subpart does not apply to storage vessels with a capacity greater than or equal to 151 m³ storing a liquid with a maximum true vapor pressure less than 3.5 kilopascals (kPa) or with a capacity greater than or equal to 75 m³ but less than 151 m³ storing a liquid with a maximum true vapor pressure less than 15.0 kPa.

(d) \* \* \*

(8) Vessels subject to subpart GGGG of 40 CFR part 63.

\* \* \* \* \*

3. Section 60.111b is amended by:
a. Removing the paragraph designations and placing the definitions in alphabetical order;

b. Revising the definition of "Storage vessel;"

c. Revising the definition of "Volatile organic liquid (VOL);" and

d. Adding, in alphabetical order, a definition of "Process tank."

The revisions and addition read as follows:

§ 60.111 Definitions.

\* \* \* \* \*

Process tank means a tank that is used within a process to collect material discharged from a feedstock storage vessel or equipment within the process before the material is transferred to other equipment within the process or a product storage vessel. In many process tanks, unit operations such as reactions and blending are conducted. Other process tanks, such as surge control vessels and bottoms receivers,

however, may not involve unit operations.

\* \* \* \* \*

Storage vessel means each tank, reservoir, or container used for the storage of volatile organic liquids but does not include:

- (1) Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors;
(2) Subsurface caverns or porous rock reservoirs; or
(3) Process tanks.

\* \* \* \* \*

Volatile organic liquid (VOL) means any organic liquid which can emit volatile organic compounds into the atmosphere.

\* \* \* \* \*

4. Section 60.116b is amended by removing the last sentence of paragraph (b).

[FR Doc. 03-4245 Filed 2-21-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 390 and 396

[Docket No. FMCSA-98-3656]

RIN 2126-AA38

General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: The FMCSA is extending the comment period while it continues to explore the feasibility of conducting a negotiated rulemaking (Reg Neg) concerning maintenance of intermodal container chassis and trailers. The FMCSA has hired a convenor to speak to interested parties about the idea of a Reg Neg. The American Association of Railroads (AAR) has requested an extension of time to give a working group additional time to determine if a private-sector solution can be developed. The FMCSA is granting the AAR's request.

DATES: Please submit your comments by April 10, 2003.

ADDRESSES: Please mail or hand deliver comments about this notice to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington,