

TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>.

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

Category	NAICS code	Examples of regulated entities
Industrial .....	325 324 424710	Chemical manufacturing facilities. Petroleum and coal products manufacturing facilities. 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 performance standards, as well as in today's final rule amendments to the applicability sections. 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.

**Judicial Review.** Under Clean Air Act (CAA) section 307(b), judicial review of the final amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 15, 2003. Only those objections to the final amendments which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements established by the final amendments may not be challenged separately in any civil or criminal proceeding we bring to enforce such requirements.

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

- I. What Is the Background for this Action?
- II. What Standards Are We Amending and how Does this Action Relate to the Overall Scope of the Subpart Kb Rule?
- III. What Were the Comments Received on the Proposed Amendments?
- IV. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
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  - D. Unfunded Mandates Reform Act
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  - 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
  - J. Congressional Review Act

## I. What Is the Background for This Action?

The EPA proposed the 40 CFR part 60, subpart Kb, rules on July 23, 1984 (49 FR 29698) and promulgated them on April 8, 1987 (52 FR 11420). The performance standards implement section 111 of the CAA and are based on the Administrator's determination that volatile organic liquid (VOL) storage vessels cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

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 AF&PA filed a petition for judicial review of the March 27, 2000 memorandum. 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 that EPA would 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.

On February 24, 2003 (68 FR 8574), we proposed amendments to subpart Kb pursuant to the agreement with AF&PA, as well as 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. Today's final rule

amendments address the issues raised by AF&PA and other parties.

## II. What Standards Are We Amending and How Does This Action Relate to the Overall Scope of the Subpart Kb Rule?

We are amending 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. For further details, please refer to the February 24, 2003 proposed rule amendments (68 FR 8574). In doing so, we are indicating by necessary implication that subpart Kb applies to all industries where volatile organic liquid (as defined in § 60.111b(k)) is stored, and thus applies to other industries in addition to the petroleum and synthetic organic chemical manufacturing industries.

**Exemption of Certain Storage Vessels by Capacity and Vapor Pressure.** Today's action amends the final rule by eliminating recordkeeping requirements for storage vessels with a capacity less than 75 m<sup>3</sup>, for storage vessels with a capacity between 75 and 151 m<sup>3</sup> storing liquid with vapor pressure less than 15 kPa, and for 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. Put another way, the EPA is exempting from subpart Kb those storage vessels presently subject to recordkeeping requirements only.

**Exemption of Process Tanks.** The EPA is amending the final rule to exempt process tanks from subpart Kb. The EPA considered whether it was justified to amend subpart Kb to include process tanks within its scope, which would apply 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)).

**Exemption of Storage Vessels Subject to the Vegetable Oil National Emission Standards for Hazardous Air Pollutants (NESHAP).** The EPA contends that the overall emissions to the environment will not increase by exempting storage