

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, exempting from subpart Kb all storage vessels that are subject to the Vegetable Oil Production NESHAP.

III. What Were the Comments Received on the Proposed Amendments?

Summary of Public Comments and Responses

This section of the preamble is a summary of the major public comments received in response to the proposed rule amendments, and changes resulting from the comments. A full report of all comments received and responses to the comments are 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—Public Comments and Responses." The document may be found in Docket ID No. OAR-2002-0046.

Comment: Two commenters recommended revising the definition of "process tank" to clarify that a vessel used within a process before material is transferred to a by-product storage vessel is considered to be a process tank. The commenters also recommended that the definition be revised to include tanks used to collect and recirculate solvents. One commenter suggested the EPA clarify that flare knockout vessels and vessels used for surge control for wastewater and/or sludge are process tanks. Another commenter requested the EPA clarify that pipeline emergency breakout tanks are process tanks, and another commenter requested the EPA clarify that vessels used for fermentation, distillation, mixing and blending, condensing, filtering, and extraction are process tanks.

Response: The EPA agrees that a vessel used within a process before material is transferred to a by-product storage vessel is considered to be a process tank. The definition of "process tank" in the final rule amendments reflects this view. The EPA considers vessels that receive and accumulate solvent or raw material from recovery processes to be storage vessels, not process tanks. Such vessels serve the same function as virgin solvent and raw material storage vessels, and some are located in tank farms with other storage vessels. The definition in the final rule amendments clarifies that "process tank" does not include such vessels.

However, the definition also clarifies that vessels used within solvent and raw material recovery processes (that are not used for the ultimate storage of recovered liquids) are process tanks. The EPA agrees that flare knockout vessels and vessels used for surge control for wastewater and/or sludge are process tanks. The EPA also agrees that vessels used as described by one commenter (fermentation, distillation, etc.) are process tanks, and that the proposed definition of "process tank" would be interpreted to include such vessels. Finally, the EPA agrees that vessels used for pipeline surge control (not storage) are considered to be process tanks.

Comment: Several commenters recommended raising the proposed vapor pressure applicability criteria to the levels at which control is required. One of the commenters stated that the EPA's rationale for the proposed levels would also support raising the criteria to the levels at which control is required.

Response: The EPA disagrees that the rationale for the proposed applicability criteria also supports raising the levels to those at which control is required. The proposed applicability criteria would exempt tanks storing liquids with a vapor pressure significantly lower than the vapor pressure criteria for control. Regarding the vapor pressure at which recordkeeping of the stored liquid is required, the preamble to the 1987 final subpart Kb (49 FR 29711) states, "These vapor pressures should be high enough so that records would not be kept on liquids that could not, under reasonable circumstances, reach the maximum true vapor pressure cutoffs, but low enough so that records would be kept on most liquids that could reach the maximum true vapor pressure cutoffs." This remains the EPA's position, and the EPA has, therefore, retained revised the applicability criteria as proposed.

Comment: One commenter urged the EPA to state that it will not seek to enforce subpart Kb for process tanks that have been constructed, reconstructed or modified after July 23, 1984 and before the date of the proposed amendments to subpart Kb.

Response: The EPA stated in the preamble to the proposed rule amendments that the 1998 interpretation of subpart Kb 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. The EPA also stated that it would not be worthwhile

to now propose to include process tanks under subpart Kb, and that the Agency was thus proposing to amend subpart Kb to exempt process tanks to codify the 1998 position. Therefore, the EPA will not be taking any enforcement action regarding the tanks described by the commenter.

Comment: One commenter urged the EPA to clarify its "enforcement posture" with respect to storage tanks in facilities other than the chemical and petroleum industries. The commenter stated several reasons for subpart Kb not applying outside the chemical and petroleum industries. The commenter stated that storage tanks outside the chemical and petroleum industries were not considered when determining the economic impacts of the proposed standards. The commenter also stated that the information collection request (ICR) for the standards was limited to the chemical and petroleum industries.

Response: The EPA stated in the preamble to the proposed rule why the text of the rule indicates that the rule's scope is not limited to the chemical and petroleum industries. The EPA also described the process by which a source category on the CAA section 111 priority list for regulation was revised (concurrently with the promulgation of subpart Kb) to include all volatile organic liquid storage. The priority list had previously included storage vessel source categories only for the petroleum industry and the synthetic chemical manufacturing industry, confirming what is already clear from the proposed rule's text—it applies to industries other than chemical and petroleum.

The commenter is correct that the economic analysis for subpart Kb did not include storage vessels in industries other than the chemical and petroleum industries. However, in the background information document for the proposed subpart Kb (EPA-450/3-81-003a), the amount of storage in industries outside the chemical and petroleum industries was estimated to be small enough (relative to storage in those industries) to be disregarded in the analysis.

The commenter is also correct that the supporting statement for the ICR for subpart Kb lists only the chemical and petroleum industries as respondents. Again, the EPA estimated that these industries contain the overwhelming majority of volatile organic liquid storage vessels. The list of respondents in the ICR supporting statement does not determine the applicability of subpart Kb; 40 CFR 60.110b determines applicability. Subpart Kb has such broad applicability that an exhaustive list of respondents would be difficult to develop. The Office of Management and