

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.