

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 01/08/2021, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2020-0372. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 60**

**[EPA-HQ-OAR-2020-0372; FRL-10019-21-OAR]**

**RIN 2060-AU91**

### **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:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is finalizing amendments to 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. We are finalizing specific amendments that would allow owners or operators of storage vessels subject to the Standards of Performance for Volatile Organic Liquid Storage Vessels and equipped with either an external floating roof (EFR) or internal floating roof (IFR) to voluntarily elect to comply with the requirements specified in the National Emission Standards for Storage Vessels (Tanks)—Control Level 2, as an alternative standard, in lieu of the requirements specified in the Standards of Performance for Volatile Organic Liquid Storage Vessels, subject to certain caveats and exceptions for monitoring, recordkeeping, and reporting.

**DATES:** The final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2020-0372. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically on the <https://www.regulations.gov/> website. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>. The EPA continues to carefully and continuously monitor information from the Center for Disease Control, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Mr. Neil Feinberg, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2214; fax number: (919) 541-0516; and email address: [feinberg.stephen@epa.gov](mailto:feinberg.stephen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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*Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA	Clean Air Act
CFR	Code of Federal Regulations
EFR	external floating roof
EPA	Environmental Protection Agency
ICR	Information Collection Request
IFR	internal floating roof
kPa	kilopascals
m <sup>3</sup>	cubic meters
NAICS	North American Industry Classification System
NESHAP	national emission standards for hazardous air pollutants
NSPS	new source performance standards
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
tpy	tons per year
VOC	volatile organic compound(s)

*Background information.* On October 16, 2020, the EPA proposed revisions to 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. 85 FR 65774. In this action, the EPA is finalizing decisions and revisions for the rule. We summarize the in-scope comments we timely received regarding the proposed rule and provide our responses in this preamble. A “track changes” version of the regulatory language that incorporates the changes in this action is available in the docket.

*Organization of this document.* The information in this preamble is organized as follows:

## I. General Information

A. Does this action apply to me?

B. Where can I get a copy of this document and other related information?

C. Judicial Review and Administrative Reconsideration

## II. Background and Final Amendments

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 01/08/2021. We have taken steps to ensure the accuracy of this version, but it is not the official version.

- III. Public Comments and Responses
- IV. Impacts of the Final Rule
  - A. What are the air quality impacts?
  - B. What are the cost impacts?
  - C. What are the economic impacts?
  - D. What are the benefits?
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
  - C. Paperwork Reduction Act (PRA)
  - D. Regulatory Flexibility Act (RFA)
  - E. Unfunded Mandates Reform Act (UMRA)
  - F. Executive Order 13132: Federalism
  - G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
  - I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  - J. National Technology Transfer and Advancement Act (NTTAA)
  - K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
  - L. Congressional Review Act (CRA)

**I. General Information**

A. *Does this action apply to me?*

*Regulated entities.* Categories and entities potentially affected by this action are shown in

Table 1 of this preamble.

**TABLE 1. EXAMPLES OF POTENTIALLY AFFECTED ENTITIES BY CATEGORY**

Category	NAICS code <sup>1</sup>	Examples of potentially regulated entities
Industrial.....	325 324 422710	Chemical manufacturing facilities Petroleum and coal products manufacturing facilities Petroleum bulk stations and terminals

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your entity is

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affected by this action, you should carefully examine the applicability criteria found in the final rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, your delegated authority, or your EPA Regional representative listed in 40 CFR 60.4 (General Provisions).

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this final action will be available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the final rule and key technical documents at this same website.

*C. Judicial Review and Administrative Reconsideration*

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that “[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.” This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, “[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 01/08/2021. We have taken steps to ensure the accuracy of this version, but it is not the official version.

[the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.’’ Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

## **II. Background and Final Amendments**

Pursuant to the EPA’s authority under CAA section 111, the Agency proposed (49 FR 29698, July 23, 1984) and promulgated (52 FR 11420, April 8, 1987) new source performance standards (NSPS) at 40 CFR part 60, subpart Kb, for Volatile Organic Liquid Storage Vessels, Including Petroleum Liquid Storage Vessels, for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. To reduce volatile organic compound (VOC) emissions from storage vessels with a capacity of 75 cubic meters (m<sup>3</sup>) or more that store organic liquids with a true vapor pressure over 27.6 kilopascals (kPa), and from storage vessels with a capacity of 151 m<sup>3</sup> or more that store organic liquids with a true vapor pressure over 5.2 kPa, NSPS subpart Kb requires the use of either an EFR, an IFR, or a closed vent system and a control device. See 40 CFR 60.110b(a) and 60.112b(a) and (b).<sup>1</sup> NSPS subpart Kb also specifies testing, monitoring, recordkeeping, reporting, and other requirements in 40 CFR 60.113b through 60.116b to ensure compliance with the standards. More specifically, 40 CFR 60.113b requires,

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<sup>1</sup> All affected storage vessels storing organic liquids with a true vapor pressure of 76.6 kPa or more must use a closed vent system and a control device. 40 CFR 60.112b(b).  
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among other things, that certain inspections for IFR and EFR occur at least once within certain defined timeframes (such as at least once every year, 5 years, or 10 years). Storage vessels with an EFR consist of an open-top cylindrical steel shell equipped with a deck that floats on the surface of the stored liquid (commonly referred to as a floating roof). Storage vessels with an IFR are fixed roof vessels<sup>2</sup> that also have a deck internal to the tank that floats on the liquid surface within the fixed roof vessel (commonly referred to as an internal floating roof).

The standards in NSPS subpart Kb for storage vessels with an EFR or IFR are a combination of a design, equipment, work practice, and operational standards set pursuant to CAA section 111(h). These standards require, among other things, that a rim seal be installed continuously around the circumference of the vessel (between the inner wall of the vessel and the floating roof) to prevent VOC from escaping to the atmosphere through gaps between the floating roof and the inner wall of the storage vessel. Similarly, NSPS subpart Kb requires deck fittings<sup>3</sup> on the floating roof to be equipped with a gasketed cover or lid that is kept in the closed position at all times (*i.e.*, no visible gap), except when the device (the deck fitting) is in actual use, to prevent VOC emissions from escaping through the deck fittings. In general, NSPS subpart Kb requires owners or operators to conduct visual inspections to check for defects in the floating roof, rim seals, and deck fittings (*e.g.*, holes, tears, or other openings in the rim seal, or covers and lids on deck fittings that no longer close properly) that could expose the liquid surface to the atmosphere and potentially result in VOC emission losses through rim seals and deck

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<sup>2</sup> A fixed roof storage vessel consists of a cylindrical steel shell with a permanently affixed roof, which may vary in design from cone or dome-shaped to flat.

<sup>3</sup> Numerous fittings pass through or are attached to floating roof decks to accommodate structural support components or to allow for operational functions. Typical deck fittings include, but are not limited to, the following: access hatches, gauge floats, gauge-hatch/sample ports, rim vents, deck drains, deck legs, vacuum breakers, and guidepoles. IFR tanks may also have deck seams, fixed-roof support columns, ladders, and/or stub drains. This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 01/08/2021. We have taken steps to ensure the accuracy of this version, but it is not the official version.

fittings.<sup>4</sup>

Since promulgation of NSPS subpart Kb, the EPA promulgated 40 CFR part 63, subpart WW, which is applicable to storage vessels containing organic materials, as part of the generic maximum achievable control technology standards program for setting national emission standards for hazardous air pollutants (NESHAP) under CAA section 112. See 64 FR 34854 (June 29, 1999). NESHAP subpart WW was developed for the purpose of providing consistent EFR and IFR requirements for storage vessels that could be referenced by multiple NESHAP subparts. Like the NSPS subpart Kb standards for floating roof tanks, NESHAP subpart WW is comprised of a combination of design, equipment, work practice, and operational standards. See proposed rule for NESHAP subpart WW (63 FR 55178, 55196 (October 14, 1998)). Both rules specify monitoring, recordkeeping, and reporting requirements for storage vessels equipped with EFR or IFR, and both include numerous requirements for inspections that occur at least once within certain defined timeframes. See 40 CFR 63.1063 for the IFR and EFR inspection requirements of NESHAP subpart WW. The inspections required by NESHAP subpart WW are intended to achieve the same goals as those inspections required by NSPS subpart Kb (*e.g.*, both rules require visual inspections to check for defects in the floating roof, rim seals, and deck fittings). Further, NESHAP subpart WW incorporates technical improvements based on the EPA's experience with implementation of other NESHAP. For storage vessels equipped with either an EFR or IFR, as long as there is visual access (as explained below), NESHAP subpart WW allows that the visual inspection of the floating roof deck, deck fittings, and rim seals may be conducted, while the tank remains in-service, from the top-side of the floating roof (meaning

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<sup>4</sup> For details about storage vessel emissions, refer to the Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, AP-42, Fifth Edition, Chapter 7: Liquid Storage Tanks, dated June 2020, which is available at: <https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-Compilation-air-emissions-factors>.

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on top of the floating roof, and in the case of an IFR, under the fixed roof and internal to the tank); this is referred to as an in-service top-side of the floating roof visual inspection. In other words, in the case of an IFR, if an owner or operator has physical access to the inside of the tank above the floating roof and a floating roof design which allows inspectors to have visual access to all rim seals and deck fittings of the floating roof (meaning an inspector can see all the components required to be inspected) while the storage vessel is in-service, then NESHAP subpart WW does not require the owner or operator to take the storage vessel out of service to inspect the floating roof, rim seals, and deck fittings in accordance with 40 CFR 63.1063(d)(1).<sup>5</sup> This contrasts with NSPS subpart Kb, which, as explained in the proposed rule, requires that these inspections be conducted when the storage vessel is out-of-service (compare 40 CFR 63.1063(d)(1) with 40 CFR 60.113b(a)(4) and (b)(6)).

Pursuant to the EPA's authority under CAA section 111(h), we proposed amendments to NSPS subpart Kb in a new paragraph (see proposed 85 FR 65782 - 40 CFR 60.110b(e)(5)) that would allow owners or operators of storage vessels subject to NSPS subpart Kb, and equipped with either an EFR or IFR, the choice to elect to comply with the requirements specified in NESHAP subpart WW as an alternative standard, in lieu of the requirements specified in NSPS subpart Kb. 85 FR 65774 (October 16, 2020). Sources subject to NSPS subpart Kb that are equipped with either an EFR or IFR that elect to utilize the alternative standard would comply with all of the requirements in NESHAP subpart WW instead of the requirements in NSPS subpart Kb, 40 CFR 60.112b through 40 CFR 60.117b, subject to certain caveats and exceptions explained in the proposed rule and below. Among other things, this alternative allows owners or operators of storage vessels subject to NSPS subpart Kb that are equipped with an IFR, and that

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<sup>5</sup> "The inspection may be performed entirely from the top side of the floating roof, as long as there is visual access to all deck components specified in paragraph (a) of this section." 40 CFR 63.1063(d)(1). This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 01/08/2021. We have taken steps to ensure the accuracy of this version, but it is not the official version.

can meet the visual access requirement of NESHAP subpart WW explained above, to conduct the internal in-service top-side of the floating roof visual inspection pursuant to NESHAP subpart WW, thereby avoiding the need to empty and degas the vessel for the sole purpose of conducting the inspection. Further, we are not changing the underlying monitoring, reporting, or recordkeeping requirements in either NSPS subpart Kb or NESHAP subpart WW (with the exception of some conforming and referencing edits to recordkeeping and reporting as discussed in the proposed rule and below), nor are we changing the applicability criteria in NSPS subpart Kb or NESHAP subpart WW. We are requiring that owners or operators that choose to use this optional alternative standard continue to use the same NSPS subpart Kb procedures for all storage vessels when determining applicability of NSPS subpart Kb; thus, owners or operators that choose to use this alternative must continue to comply with the monitoring requirements of 40 CFR 60.116b(a), (c), (e), and (f)(1), and also must keep other records and furnish other reports (as discussed in the proposed rule and below) in addition to all of the requirements specified in 40 CFR 63.1060 through 40 CFR 63.1067 of NESHAP subpart WW. In addition, because NSPS subpart Kb applies to each single storage vessel (see 40 CFR 60.110b for NSPS subpart Kb applicability and definition of affected facility), this alternative standard would be available for each affected facility as defined in NSPS subpart Kb. In other words, an owner or operator with multiple affected facilities can choose to use (or not use) the alternative for each individual affected facility.

After considering the public comments received, the EPA is finalizing the amendments that were proposed with minimal changes as a result of comments. We are clarifying that the notification for switching to or from the alternative standard is only required for the initial inspection after the switch. We are also correcting typographical errors in NSPS subpart Kb that

inadvertently referenced the wrong, nonexistent subparts.

### **III. Public Comments and Responses**

This section presents a summary of the relevant public comments received on the proposed amendments and the EPA's responses. The EPA received five relevant public comments on the proposed amendments, some of which contained portions that were out of scope, and one comment that was entirely out of scope. The comments can be obtained online from the Federal Docket Management System at <https://www.regulations.gov/>.

*Comment:* One commenter stated that the EPA should consider increasing the required frequency of inspections under the alternative standard, and that the EPA did not offer strong evidence of equivalence between the NSPS subpart Kb requirements and the alternative standard.

*Response:* As discussed in section III.A of the preamble to the proposed rule, EPA determined that the alternative standard is appropriate because it will achieve a reduction in emissions at least equivalent to the reduction in emissions achieved under NSPS subpart Kb, and that the alternative standard is just as stringent as, if not more stringent than, the underlying standard. This determination was based upon the premise that the proposal would not change the underlying compliance schedule(s) for events (inspections) under NSPS subpart Kb or NESHAP subpart WW. The EPA did not solicit comment on, nor did we intend to make changes to, any other provisions of NSPS subpart Kb or NESHAP subpart WW, including the frequency of inspections required by each of those subparts. Further, the EPA referenced and provided background documentation in the docket to support this equivalency determination (see Docket Item No. EPA-HQ-OAR-2020-0372-0004). The commenter did not explain how the EPA's support of the proposed equivalency determination was inadequate or provide any evidence to

support the claimed need of increased inspection frequency. While the commenter states that “empty vessel inspections” are “potentially more comprehensive,” they offer no explanation for this claim and do not dispute the EPA’s explanation that “[c]onducting the in-service top-side-of-the-floating-roof inspection per NESHAP subpart WW affords the inspector the same ability to examine all the listed components for all of the listed defects/inspection failures as if the storage vessel was emptied and degassed.” 85 FR 65779. Therefore, the EPA does not find it necessary to increase the required frequency of inspections under the alternative standard in order to determine equivalency for the multiple reasons stated in section III.A of the proposal preamble which are not repeated here.

*Comment:* One commenter suggested that the EPA consider including additional context for the Agency’s explanation regarding the emission reduction potential of allowing compliance with the alternative standard.

*Response:* The EPA has already included a document in the docket titled “Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb” (Docket Item No. EPA-HQ-OAR-2020-0372-0005) that explains the air quality impacts of the proposal. This document explains emission releases from tank emptying and degassing events and includes national impact estimates of the potential emissions avoided by the proposal in terms of tons per year (tpy) of VOC. This document already includes information that the commenter suggests should be added. Further, the commenter did not provide any explanation as to why it believes the documentation in the docket at proposal provided inadequate context for understanding the predicted emissions reductions associated with the proposed alternative standard. Therefore, the EPA does not find it necessary to conduct any additional analysis of the air quality impacts associated with the alternative standard.

*Comment:* Several commenters recommended clarifying that the proposed revisions (the alternative standard) can be used by sources subject to other regulations that reference NSPS subpart Kb, such as the National Emission Standard for Benzene Waste Operations and the Gasoline Distribution MACT. The commenters noted that some emission standards that reference NSPS subpart Kb do not have the same design capacity and vapor pressure thresholds for requiring control as NSPS subpart Kb yet still require compliance with NSPS subpart Kb. The commenter suggested that the language of the proposed revisions be changed to be inclusive of storage vessels subject to those referencing standards.

*Response:* The EPA did not propose to allow the alternative standard for any sources aside from those that meet the applicability criteria in 40 CFR 60.110b and which are equipped with either an IFR or EFR pursuant to 40 CFR 60.112b(a)(1) or (2). If the EPA were to make the alternative standard available to sources that comply with NSPS subpart Kb via a referencing subpart as commenters suggest, then the EPA would first need to conduct a detailed analysis of how each potential referencing subpart references NSPS subpart Kb. The EPA would then need to include conforming regulations in this rulemaking for recordkeeping, reporting, and applicability of general provisions as needed for those referencing subparts. These time-consuming analyses and associated regulatory amendments are outside the scope of this limited rulemaking. Therefore, we are not making changes to the criteria for storage vessels allowed to use the alternative standard at this time. However, the EPA will consider addressing the commenters' suggestion should the Agency decide to propose additional amendments to NSPS subpart Kb in the future via a different rulemaking process.

*Comment:* Several commenters recommended clarifying the reporting requirements of the proposed revisions. The commenters stated that the proposed revisions at 40 CFR

60.110b(e)(5)(iv)(B) and (C) require that each affected facility using the alternative standard submit reports under 40 CFR 63.1066 of NESHAP subpart WW; however, it was unclear when these reports need to be submitted. The commenter stated that it was unclear whether these reports should be submitted only with the first inspection using the alternative standard or with every subsequent inspection as well. The commenter stated that if the report was only required for the first inspection, this would be redundant with the reporting requirement in 40 CFR 60.110b(e)(5)(iv)(A). Alternatively, if this requirement were for every inspection, this requirement would conflict with the requirement in 40 CFR 60.110b(e)(5)(iv)(F)(2) to submit inspection reports only when inspection failures occur.

*Response:* The EPA intended to require only the initial notification that occurs after electing to comply with the alternative standard under 40 CFR 60.110b(e)(5)(iv)(A). Therefore, we agree with the commenters' suggestion to remove the proposed provision that would have required inclusion of this notification with subsequent reports and have made the corresponding changes in the final rule language.

*Comment:* Several commenters suggested clarifying the reporting frequency in the proposed revisions. The commenters stated that maintaining the reporting frequency of NSPS subpart Kb "could lead to inconsistent and duplicative reporting requirements which. . . EPA has repeatedly acknowledged impose unnecessary burden with no environmental benefit," and that the EPA should allow semi-annual reporting frequency. The commenters stated that a semi-annual reporting requirement would be more consistent with reporting requirements established after the promulgation of NSPS subpart Kb in 1987. They also stated that the EPA allows storage vessels subject to both NSPS subpart Kb and a NESHAP to submit compliance reports on a semi-annual basis.

*Response:* As the EPA explained in section V of the proposed amendments, the Agency did not solicit comment on, nor did we intend to make changes to, any other provisions of NSPS subpart Kb or NESHAP subpart WW aside from incorporating the proposed alternative standard. As such, the EPA is not modifying the reporting schedule for NSPS subpart Kb because such a change would be outside the scope of this limited rulemaking which was intended only to incorporate the proposed alternative standard. It was not the EPA's intent to make changes to the underlying reporting schedules in NSPS subpart Kb. However, the EPA will consider addressing the commenters' suggestion should the Agency decide to propose additional amendments to NSPS subpart Kb in the future via a different rulemaking process.

*Comment:* Several commenters recommended clarifying the inspection deadlines of the alternative standard. The commenters stated that the EPA should allow inspections to occur at any point within the specified calendar period (*e.g.*, within each calendar year rather than a specific 1-year interval), provided that a minimum amount of time has passed since the last inspection.

*Response:* As the EPA explained in section V of the proposed amendments, the Agency did not solicit comment on, nor did we intend to make changes to, any other provisions of NSPS subpart Kb or NESHAP subpart WW aside from incorporating the proposed alternative standard. As such, the EPA is not modifying the inspection schedule requirements for NSPS subpart Kb because such a modification would be outside the scope of this limited rulemaking which was intended only to incorporate the proposed alternative standard. It was not the EPA's intent to make changes to the underlying inspection schedules in NSPS subpart Kb. However, the EPA will consider addressing the commenters' suggestion should the Agency decide to propose additional amendments to NSPS subpart Kb in the future via a different rulemaking process.

*Comment:* One commenter suggested that the EPA make technical corrections to 40 CFR 60.115b(a)(4) and (b) to correct previous inadvertent errors in citations.

*Response:* The EPA agrees with the commenter and has corrected 40 CFR 60.115b(a)(4) to reference 40 CFR 60.112b(a)(1) and 40 CFR 60.115b(b) to reference 40 CFR 60.112b(a)(2). While this comment and the EPA's associated revisions do not fit squarely within the scope of the proposal to incorporate the alternative standard, and do address a separate provision of NSPS subpart Kb unrelated to the alternative standard, the EPA found it appropriate to make these changes because commenters identified a genuine typographical error. The EPA's revisions here will not alter how sources and/or the Agency have been implementing NSPS subpart Kb in any way. The EPA finds it appropriate and convenient to use this rulemaking to correct the inadvertent typographical error.

#### **IV. Impacts of the Final Rule**

##### *A. What are the air quality impacts?*

We estimate that nationwide VOC emissions reductions would range from 65.8 tpy to 83.3 tpy as a result of the amendments. As explained at proposal, the alternative standard allows owners or operators to avoid emptying and degassing storage vessels in order to perform certain inspections, thereby reducing emissions caused by degassing vapors which have historically been vented to the atmosphere or sent to control equipment. These emissions reductions were documented in the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb* (see Docket ID No. EPA-HQ-OAR-0372-0005).

##### *B. What are the cost impacts?*

We estimate that the amendments will result in a nationwide net cost savings of between



\$768,000 and \$1,091,000 per year (in 2019 dollars). For further information on the cost savings associated with the amendments, see the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb* (see Docket ID No. EPA-HQ-OAR-0372-0005).

*C. What are the economic impacts?*

As noted earlier, we estimated a nationwide cost savings associated with the amendments. Therefore, we do not expect the actions in this rulemaking to result in business closures, significant price increases or decreases in affected output, or substantial profit loss. For more information, refer to the *Economic Impact Analysis for the Proposed Alternative Standard Available to Floating Roof Storage Vessels (Tanks) Subject to 40 CFR Part 60 Subpart Kb*, which is in the docket for this rulemaking.

*D. What are the benefits?*

The EPA did not monetize the benefits from the estimated emission reductions of VOC associated with this action. However, we expect this action would provide benefits associated with VOC emission reductions.

**V. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

*C. Paperwork Reduction Act (PRA)*

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1854.13. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

See section III.A of the preamble for the proposed rule (“What actions are we proposing?”) for a description of the alternative standard. Information about inspection activities related to NSPS subpart Kb is collected to assure compliance with NSPS subpart Kb. Most of the costs associated with the alternative standard are associated with labor hours. The time needed to conduct an in-service top-side-of-the-floating-roof visual inspection pursuant to the requirements in NESHAP subpart WW is expected to be less than the time needed to complete an out-of-service inspection pursuant to NSPS subpart Kb. Therefore, we anticipate a cost savings. This ICR documents the incremental burden imposed by the final amendments only. In summary, there is a decrease in the burden (labor hours) documented in this ICR due a reduction in the number of respondents (storage vessels subject to NSPS subpart Kb) that would be required to empty and degas their storage vessels equipped with an IFR.

*Respondents/affected entities:* Owners or operators of storage vessels constructed after July 23, 1984, that have capacity greater than or equal to 75 m<sup>3</sup> used to store volatile organic liquids (including petroleum liquids) with a true vapor pressure greater than or equal to 3.5 kPa, and

storage vessels constructed after July 23, 1984, that have capacity between 75 and 151 m<sup>3</sup> capacity for which the true vapor pressure of the stored liquid is greater than or equal to 15 kPa.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60, subpart Kb and 40 CFR part 63, subpart WW).

*Estimated number of respondents:* 385 facilities.

*Frequency of response:* Variable (storage vessel specific).

*Total estimated burden:* A reduction of 6,210 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* A savings of \$930,000 (per year), includes a savings of \$466,000 annualized capital or operation and maintenance costs.

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 the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the *Federal Register* and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

#### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The alternative standard is optional; therefore, small entities are not required to comply with the alternative.

#### *E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C.

1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It 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.

*G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA offered consultation with tribal officials during the development of this action; however, the Agency did not receive a request for consultation. The EPA held a webinar with communities on November 10, 2020, which included tribes during the public comment period to inform them of the content of the proposed rule and to encourage them to submit comments on the proposed rule.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-

202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Although the proposed alternative is optional, the alternative standard is at least as stringent as the current applicable requirements.

As discussed above in section V.G, a webinar was held for community groups which included environmental justice communities.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 60**

Environmental protection, Air pollution control, Reporting and recordkeeping

requirements, Volatile organic compounds.

**Andrew Wheeler,**

*Administrator.*

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 60 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 *et seq.*

**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 adding paragraph (e)(5) to read as follows:

**§60.110b Applicability and designation of affected facility.**

\* \* \* \* \*

(e) \* \* \*

(5) *Option to comply with part 63, subpart WW, of this chapter.* Except as specified in paragraphs (e)(5)(i) through (iv) of this section, owners or operators may choose to comply with 40 CFR part 63, subpart WW, to satisfy the requirements of §§60.112b through 60.117b for storage vessels either with a design capacity greater than or equal to 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kPa but less than 76.6 kPa, or with a design capacity greater than or equal to 75 m<sup>3</sup> but less than 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa.

(i) The general provisions in subpart A of this part apply instead of the general provisions in subpart A of part 63 of this chapter.

(ii) Where terms are defined in both this subpart and 40 CFR part 63, subpart WW, the definitions in this subpart apply.

(iii) Owners or operators who choose to comply with 40 CFR part 63, subpart WW, also must comply with the monitoring requirements of §60.116b(a), (c), (e), and (f)(1), except as specified in paragraphs (e)(5)(iii)(A) through (C) of this section.

(A) The reference to all records applies only to the records required by §60.116b(c);

(B) The reference to §60.116b(b) does not apply; and

(C) The reference to §60.116b(g) does not apply.

(iv) Owners or operators who choose to comply with 40 CFR part 63, subpart WW, must also keep records and furnish reports as specified in paragraphs (e)(5)(iv)(A) through (F) of this section.

(A) For each affected facility, the owner or operator must notify the Administrator at least 30 days before the first inspection is conducted under 40 CFR part 63, subpart WW. After this notification is submitted to the Administrator, the owner or operator must continue to comply with the alternative standard described in this paragraph (e)(5) until the owner or operator submits another notification to the Administrator indicating the affected facility is using the requirements of §§60.112b through 60.117b instead of the alternative standard described in this paragraph (e)(5). The compliance schedule for events does not reset upon switching between compliance with this subpart and 40 CFR part 63, subpart WW.

(B) Keep a record of each affected facility using the alternative standard described in this paragraph (e)(5) when conducting an inspection required by §63.1063(c)(1) of this chapter.

(C) Keep a record of each affected facility using the alternative standard described in this paragraph (e)(5) when conducting an inspection required by §63.1063(c)(2) of this chapter.



(D) Copies of all records and reports kept pursuant to §60.115b(a) and (b) that have not met the 2-year record retention required by the introductory text of §60.115b must be kept for an additional 2 years after the date of submittal of the inspection notification specified in paragraph (e)(5)(iv)(A) of this section, indicating the affected facility is using the requirements of 40 CFR part 63, subpart WW.

(E) Copies of all records and reports kept pursuant to §63.1065 of this chapter that have not met the 5-year record retention required by the introductory text of §63.1065 must be kept for an additional 5 years after the date of submittal of the notification specified in paragraph (e)(5)(iv)(A) of this section, indicating the affected facility is using the requirements of §§60.112b through 60.117b.

(F) The following exceptions to the reporting requirements of §63.1066 of this chapter apply:

(1) The notification of initial startup required under §63.1066(a)(1) and (2) of this chapter must be submitted as an attachment to the notification required by §§60.7(a)(3) and 60.115b(a)(1);

(2) The reference in §63.1066(b)(2) of this chapter to periodic reports “when inspection failures occur” means to submit inspections results within 60 days of the initial gap measurements required by §63.1063(c)(2)(i) of this chapter and within 30 days of all other inspections required by §63.1063(c)(1) and (2) of this chapter.

3. Section 60.115b is amended by revising paragraph (a)(4) and the introductory text of paragraph (b) to read as follows:

**§60.115b Reporting and recordkeeping requirements.**

\* \* \* \* \*

(a) \* \* \*

(4) After each inspection required by §60.113b(a)(3) that finds holes or tears in the seal or seal fabric, or defects in the internal floating roof, or other control equipment defects listed in §60.113b(a)(3)(ii), a report shall be furnished to the Administrator within 30 days of the inspection. The report shall identify the storage vessel and the reason it did not meet the specifications of §60.112b(a)(1) or §60.113b(a)(3) and list each repair made.

(b) After installing control equipment in accordance with §60.112b(a)(2) (external floating roof), the owner or operator shall meet the following requirements.

\* \* \* \* \*