

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 10/7/2020, 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-10015-53-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; Proposed Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing 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 (NSPS Kb). We are proposing specific amendments to NSPS Kb that would allow owners or operators of storage vessels subject to NSPS Kb and equipped with either an external floating roof (EFR) or internal floating roof (IFR) to voluntarily elect to comply with the requirements specified in NESHAP WW as an alternative standard, in lieu of the requirements specified in NSPS Kb, subject to certain caveats and exceptions for monitoring, recordkeeping, and reporting.

DATES: *Comments.* Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of

consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public hearing. If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2020-0372, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- Email: a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2020-0372 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2020-0372.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2020-0372, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004.
The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. 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. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed 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.

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. Please note that the EPA is deviating from its typical approach because the President has declared a national emergency. Due to the current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

If requested, the virtual hearing will be held on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details on the virtual public hearing website at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage>.

The EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage> or contact Ms. Virginia Hunt at (919) 541-0832 or by email at hunt.virginia@epa.gov. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by

emailing it to Neil Feinberg and Virginia Hunt. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage>. While the EPA expects the hearing to go forward as set forth above, if requested, please monitor our website or contact Virginia Hunt at (919) 541-0832 or hunt.virginia@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with Virginia Hunt and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advance notice.

Docket. 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 in Regulations.gov. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) 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. Publicly available docket materials are available electronically in Regulations.gov.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2020-0372. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. 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. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, 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. We encourage the public to submit comments via <https://www.regulations.gov/> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. 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 CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov/> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media 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. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2020-0372. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

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:

AMP	alternative monitoring plan
CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
EFR	external floating roof
EPA	Environmental Protection Agency
ET	Eastern Time
ICR	information collection request
IFR	internal floating roof
kPa	kilopascals
m ³	cubic meters
NAICS	North American Industry Classification System
NESHAP	national emission standards for hazardous air pollutants
NSPS	new source performance standards
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
tpy	tons per year

UMRA	Unfunded Mandates Reform Act
VOC	volatile organic compound(s)

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

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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

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this proposed rule include those listed in Table 1 of this preamble.

TABLE 1. EXAMPLES OF POTENTIALLY AFFECTED ENTITIES BY CATEGORY

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

¹ 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 the proposed amendments. To determine whether your facility could be affected by the proposed amendments, you should carefully examine the applicability criteria in 40 CFR 60.110b and 60.112b(a)(1) and (2). If you have any questions regarding the applicability of the proposed amendments to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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 action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed 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 proposal and key technical documents at this same website.

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0372).

II. Background

Pursuant to the EPA’s authority under Clean Air Act (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 (m³) 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 m³ or more that store organic liquids with a true vapor pressure over 5.2 kPa, NSPS 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).¹ NSPS 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, 60.113b requires, 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 vessels² 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 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

¹ 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).

² 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.

of the storage vessel. Similarly, NSPS Kb requires deck fittings³ 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 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 fittings.⁴

Pursuant to 40 CFR 60.113b(a)(4), and as one of the several inspection requirements included in 60.113b, an owner or operator of a storage vessel subject to NSPS Kb and equipped with an IFR must visually inspect the IFR, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) from inside the storage vessel (internal) each time the storage vessel is emptied and degassed (removed from service or out-of-service), and in no event can inspections be conducted at intervals greater than 10 years.⁵ There are no provisions in NSPS Kb that allow the 40 CFR 60.113b(a)(4) inspections for IFRs to be conducted while liquids and vapors remain in the storage vessel (*i.e.*, in-service). Therefore, owners or operators that have not emptied and degassed their fixed roof storage vessel equipped with an IFR within a 10-year period for whatever reason (such as to perform cleaning, maintenance, inspections, and/or testing not required by NSPS Kb) are required to do so for the

³ 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.

⁴ 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>.

⁵ Degassing means the process of removing stored material vapors from the storage vessel.

sole purpose of complying with the inspection requirements in the rule at 40 CFR

60.113b(a)(4).⁶

A similarly worded requirement (to visually inspect the floating roof, rim seals, and deck fittings when the tank is emptied and degassed) is required pursuant to 40 CFR 60.113b(b)(6) for storage vessels equipped with an EFR. However, this inspection for EFRs is not mandated to occur at least once every 10 years as is required for storage vessels equipped with an IFR. This inspection for EFRs is only required each time the tank is emptied and degassed. Further, other inspections required for EFRs by 40 CFR 60.113b(b) are conducted while the tank is in-service. As such, there is no provision in NSPS Kb that would require a storage vessel equipped with an EFR to empty and degas for the sole purpose of conducting an inspection.

Since promulgation of NSPS 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 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 Kb standards for floating roof tanks, NESHAP WW is comprised of a combination of design, equipment, work practice, and operational standards. See proposed rule for NESHAP 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

⁶ “At least once every 10 years, the owner or operator is required to empty the storage vessel and to inspect the internal floating roof, the primary seal, and the secondary seal, if one exists.” 52 FR 11415, 11421 (April 8, 1987) (final rule for NSPS Kb).

defined timeframes. See 40 CFR 63.1063 for the IFR and EFR inspection requirements of NESHAP WW. The inspections required by NESHAP WW are intended to achieve the same goals as those inspections required by NSPS Kb (*e.g.*, both rules require visual inspections to check for defects in the floating roof, rim seals, and deck fittings). Further, NESHAP 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 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 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 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).⁷ This contrasts with NSPS Kb, which, as explained above, 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)).

Based on the EPA's experience, we are aware that at least some storage vessels subject to NSPS Kb, and equipped with an IFR, can allow physical access to inside the tank above the floating roof and have a floating roof design which would allow the owner or operator to conduct

⁷ "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).

an in-service top-side of the floating roof visual inspection consistent with the visual access requirement in NESHAP WW. In recent years, owners or operators of IFR tanks that are subject to NSPS Kb have submitted requests for alternative monitoring plans (AMPs), in accordance with 40 CFR 60.13(i), asking to use internal in-service top-side-of-the-floating-roof visual inspections consistent with the inspection requirements in NESHAP WW at 40 CFR 63.1063(d)(1), in lieu of having to empty and degas the storage vessels. In response to these site-specific alternative requests, the EPA has required the owner or operator to demonstrate that the storage vessel design allows physical access to inside the tank above the floating roof and has a floating roof design which allows the owner or operator to have visual access to inspect the floating roof, rim seals, and all deck components. For example, see Applicability Determination Index letter, control number Z140001 (dated August 2, 2013) which is available in the docket for this rulemaking.⁸ EPA Regional offices have been evaluating and approving similar AMPs, on a case-by-case basis, for years. More recently, EPA Regional offices have been inundated with hundreds of these types of AMP requests.

III. Discussion of the Proposed Amendments

A. What actions are we proposing?

For the reasons discussed in this section, and pursuant to the EPA's authority under CAA section 111(h), we are proposing amendments to NSPS Kb in a new paragraph (see proposed 40 CFR 60.110b(e)(5)) that would allow owners or operators of storage vessels subject to NSPS Kb, and equipped with either an EFR or IFR, the choice to elect to comply with the requirements specified in NESHAP WW as an alternative standard, in lieu of the requirements specified in NSPS Kb. Sources subject to NSPS Kb that are equipped with either an EFR or IFR that elect to

⁸ Other AMPs are available at <https://cfpub.epa.gov/adi/>.

utilize the proposed alternative standard would comply with all of the requirements in NESHAP WW instead of the requirements in NSPS Kb sections 60.112b through 60.117b, subject to certain caveats and exceptions explained below. Among other things, this proposed alternative will allow owners or operators of storage vessels subject to NSPS Kb that are equipped with an IFR, and that can meet the visual access requirement of NESHAP WW explained above, to conduct the internal in-service top-side of the floating roof visual inspection pursuant to NESHAP WW, thereby avoiding the need to empty and degas the vessel for the sole purpose of conducting the inspection. While this proposed alternative standard covers more than just inspection requirements, and is available to all NSPS Kb sources equipped with either an EFR or IFR, we anticipate that the benefits associated with avoiding the need to empty and degas the vessel for the sole purpose of conducting an inspection would be realized by vessels with an IFR that have visual access. We are not proposing any changes to the existing standards in either NSPS Kb or NESHAP WW aside from allowing this alternative standard for certain sources subject to NSPS Kb. Further, we are not proposing any changes to the underlying monitoring, reporting, or recordkeeping requirements in either NSPS Kb or NESHAP WW (with the exception of some conforming and referencing edits to recordkeeping and reporting as discussed below), nor are we proposing any changes to the applicability criteria in NSPS Kb or NESHAP WW. We are proposing to require that owners or operators that choose to use this optional alternative continue to use the same NSPS Kb procedures for all storage vessels when determining applicability of NSPS Kb; thus, owners or operators that choose to use this proposed 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 below) in addition to all of the requirements specified in 40 CFR 63.1060 through 40 CFR 63.1067 of

NESHAP WW. In addition, because NSPS Kb applies to each single storage vessel (see 40 CFR 60.110b for NSPS Kb applicability and definition of affected facility), this proposed alternative standard would be available for each affected facility as defined in NSPS Kb. In other words, an owner or operator with multiple affected facilities can choose to use (or not use) the proposed alternative for each individual affected facility.

We have determined that the proposed alternative standard is appropriate because it will achieve a reduction in emissions at least equivalent to the reduction in emissions achieved under NSPS Kb, and that the alternative standard is just as stringent as, if not more stringent than, the underlying standard. First, we note that numerous NESHAP (*e.g.*, 40 CFR part 63, subparts YY, EEEE, and FFFF) already reference NESHAP WW because that rule is considered to be the EPA's flagship standard for EFR and IFR requirements under the NESHAP program. In developing and promulgating NESHAP WW, the Agency determined that NESHAP WW is "largely the same" and "similar to existing storage vessel standards" such as NSPS Kb (see the memorandum, *Rationale for Subpart WW Proposed Rule for Storage Vessels*, which is available in the docket for this rulemaking). Many NESHAP contain overlap provisions that allow owners or operators to comply with NESHAP WW alone in lieu of also complying with NSPS Kb if the affected source or facility is subject to both NESHAP WW and NSPS Kb.⁹ However, those overlap provisions do not apply to storage vessels that are subject only to NSPS Kb without also being subject to a NESHAP. This proposed alternative standard would afford these NSPS Kb-only tanks the same option.

The storage vessel design, operation, inspection frequency, inspection procedure, and repair requirements are largely the same between NESHAP WW and NSPS Kb. However, the

⁹ For examples, see 40 CFR 63.1100(g)(1)(ii), 63.2396(a)(3) and (4), and 63.2535(c).

organization and phrasing of the two rules is different. Where they differ, the requirements in NESHAP WW are clearer and more stringent than the requirements in NSPS Kb. For example, NSPS Kb requires that openings in deck fittings for an IFR or EFR be equipped with devices such that there is no “visible gap.” See 40 CFR 60.112b(a)(1)(iv) and (a)(2)(ii). However, NSPS Kb does not define what it means to have a “visible gap.” To avoid any possible ambiguity associated with the “visible gap” language, a maximum gap width of 1/8 inch is specified in NESHAP WW (*i.e.*, pursuant to 40 CFR 63.1063(d)(1)(v) gaps of more than 1/8 inch between any deck fitting gasket, seal¹⁰, or wiper and any surface that it is intended to seal constitutes an inspection failure).

Moreover, both NSPS Kb and NESHAP WW have equivalent rim seal control requirements (for EFRs, both rules require a liquid-mounted or mechanical shoe primary seal, as well as a secondary seal; and for IFRs, both rules require a liquid-mounted or mechanical shoe primary seal, or two seals if the lower seal is vapor-mounted). Also, both rules require visual floating roof inspections each time the vessel is emptied and degassed in order to check for defects in the floating roof, rim seals, and deck fittings (*e.g.*, both rules generally require owners or operators to check for holes, tears, or other openings in the rim seal, or covers and lids on deck fittings that no longer close properly); and both rules require the owner or operator to repair these defects (if any are found) prior to refilling the storage vessel with liquid. See 40 CFR 63.1063(d)(1) as compared to 40 CFR 60.113b(a)(4). The IFR and EFR inspection requirements in NESHAP WW are just as good as, and in some instances, better than, the inspection requirements in NSPS Kb.

The proposed alternative standard also provides certain benefits with respect to certain

¹⁰ EPA does not apply this 1/8-inch maximum gap width criteria to rim seals.

sources subject to NSPS Kb that are equipped with an IFR. As previously discussed, for IFR that have visual access, NESHAP WW allows the 10-year inspection to be conducted in-service top-side of the floating roof while NSPS Kb requires that the 10-year inspections be conducted solely when the storage vessel is out of service, which requires the vessel to be emptied and degassed. Thus, in some instances, NSPS Kb requires that the storage vessel be emptied and degassed only for the purpose of conducting the inspection, whereas the NESHAP WW in-service inspection option allows a source to perform the requisite inspection without having to empty and degas the tank. Conducting the in-service top-side-of-the-floating-roof inspection per NESHAP 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, but avoids the cost and emissions associated with that empty and degas event.

Emptying and degassing events are undesirable primarily because owners or operators must take the storage vessel completely out of service, which includes additional non-routine labor costs, results in the need for extra storage capacity, and creates VOC emissions. The process of taking a storage vessel out of service, emptying the vessel of all liquid inside, and then degassing the vessel requires labor hours which results in costs. When storage capacity is strained, there may be some additional costs (*e.g.*, potential need to reduce production) associated with taking a storage vessel out of service. Further, when degassing emissions must be controlled, there are more costs associated with renting portable control equipment or outsourcing the degassing controls. Historically, degassing vapors have been vented to the atmosphere or sent to flares or other control equipment. Thus, conducting the in-service top-side-of-the-floating-roof inspection per NESHAP WW rather than taking the storage vessel out of service reduces both the costs incurred by the owners or operators and the VOC emissions that

are otherwise released during emptying and degassing events. The mass of VOC emissions associated with degassing will vary depending on the size of the vapor space, the vapor pressure of the stored liquid, the amount of residual liquid in the storage vessel, the degree of saturation in the vapor space when degassing begins, and the vapor molecular weight. For detailed information about costs and VOC emissions associated with emptying and degassing events, see the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb*, which is available in the docket for this rulemaking.

Both rules require repair if defects are found. See NESHAP WW requirements (40 CFR 63.1063(e)(2)), and NSPS Kb repair requirements (40 CFR 60.113b(a)(4)).

This proposed alternative standard does not change the underlying compliance schedule(s) for events under NSPS Kb or NESHAP WW, which are either based on the same intervals (*e.g.*, in the case of annual and 10-year inspections), or are established by NSPS Kb and referenced from NESHAP WW (*e.g.*, NESHAP WW requires submittal of certain reports on dates as specified in the “referencing” subpart, which, in the case of the alternative, would be NSPS Kb). Furthermore, under this proposed alternative the applicability criteria of NSPS Kb at 40 CFR 60.110b continue to apply as do the General Provisions to 40 CFR part 60 (*e.g.*, 40 CFR 60.7(a)). A new source subject to NSPS Kb would have the choice, at startup, of which standard would apply; either NSPS Kb or NESHAP WW. After that, the owner or operator would continue to follow the standard they have chosen to comply with until they notify the EPA of a change (if they choose to change) consistent with the process discussed below.

We are also proposing that the compliance schedule for events does not reset upon switching between standards. By way of example, we use the scenario of an owner or operator of

a storage vessel with an IFR who conducted the “through manholes and roof hatches” inspection (required at least once every 12 months) in accordance with NSPS Kb, 40 CFR 60.113b(a)(2). Subsequent to that inspection, but before the next 12-month inspection is due to be conducted in accordance with the compliance schedule in 40 CFR 60.113b(a)(2), the owner or operator chooses to switch to the alternative standard. Considering this example, we are proposing that the first annual inspection conducted under NESHAP WW, 40 CFR 63.1063(c)(1)(i)(A) must occur within 12 months of the prior inspection that was conducted under NSPS Kb. The EPA is proposing this to ensure that choosing to utilize the alternative standard does not negate or extend the timing of a compliance event.

We are also proposing to require that the owner or operator notify the Administrator at least 30 days before the first inspection is conducted under the alternative standard of NESHAP WW, no matter the type of inspection. After this notification is submitted to the Administrator, we are proposing to require that the owner or operator continue to comply with the alternative standard until the owner or operator submits another notification to the Administrator indicating the affected facility is choosing to switch back to use the NSPS Kb requirements at 40 CFR 60.112b through 60.117b instead of the alternative standard. While under this proposal sources have the option to switch back and forth between NSPS Kb and the alternative standard of NESHAP WW, this notification process would repeat each time a source opts to switch. This notification system will allow the EPA to keep track of which sources subject to NSPS Kb are choosing to utilize the alternative standard so that it is clear which standard applies when determining compliance.

Moreover, we are proposing to require that copies of all records and reports kept pursuant to 40 CFR 60.115b(a) and (b) (*i.e.*, those record and reports kept under NSPS Kb before

choosing to switch to the alternative standard) must be kept for 2 years from the date of submittal of the inspection notification described above irrespective of the retention schedule in 40 CFR 60.115b. Put another way, if a source chooses to switch from NSPS Kb to NESHAP WW, then that source must retain the records that it was keeping under NSPS Kb, at the time of the switch, for 2 years from the date of the switch (based on the 2-year requirement in 40 CFR 60.115b). We believe this is important to ensure that records and reports are maintained for the full retention period under NSPS Kb when sources choose to utilize the alternative standard. Likewise, if a source chooses to switch back to NSPS Kb after using the alternative standard, then the source would be required to retain records that it was keeping under NESHAP WW, at the time of the switch, for 5 years from the date of the switch (based on the 5-year requirement in 40 CFR 63.1065). These additional retention periods are necessary because without these records and reports, then a source's compliance status, and the underlying applicable compliance dates, for the period before the source chose the alternative could be difficult to discern and, therefore, enforce. Moreover, we are proposing two exceptions to the reporting requirements of 40 CFR 63.1066 for sources that choose to utilize the alternative standard. First, we are proposing to require that the notification of initial startup required under 40 CFR 63.1066(a)(1) and (2) be submitted as an attachment to the notification required by 40 CFR 60.7(a)(3). Second, because 40 CFR 63.1066 uses the phrasing "in the periodic report specified in the referencing subpart" and NSPS Kb does not have requirements for periodic reports, we are proposing that the reference to the periodic reports, if an inspection failure occurs as specified in 40 CFR 63.1066(b)(2), means that the owner or operator is required to submit inspections results within 60 days of the initial gap measurements required by 40 CFR 63.1063(c)(2)(i) and within 30 days of all other inspections required by 40 CFR 63.1063(c)(1) and (2).

While, as explained above, we believe allowing for this proposed alternative standard will be most helpful to a certain subcategory of storage vessels subject to NSPS Kb (*i.e.*, storage vessels equipped with IFRs that have visual access to all deck components), it is both more equitable and efficient to amend NSPS Kb to allow use of this alternative for all floating roof tanks subject to NSPS Kb (EFR and IFR). The alternative standard, if finalized as proposed, should alleviate the need for many pending AMP requests, thereby reducing the administrative burden on EPA Regional offices as well as AMP requesters. The alternative would also provide flexibility for the regulated community, reduce emissions of VOC caused by degassing, and reduce the burden (cost of labor hours) on owners or operators associated with emptying and degassing.

B. What compliance dates are we proposing?

In accordance with CAA section 111(b)(1)(B), if finalized, the proposed revisions would become effective, and owners or operators may begin using the alternative standard, immediately upon publication of the final rule in the **Federal Register**.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected facilities?

We estimate that there are currently 8,753 storage vessels subject to NSPS Kb. For details about this estimate and for information regarding how many of these storage vessels the EPA predicts may choose to utilize the proposed alternative standard, refer to the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb*, which is available in the docket for this rulemaking.

B. What are the air quality impacts?

We estimate that nationwide VOC emissions reductions would range from 65.8 tons per year (tpy) to 83.3 tpy as a result of the proposed amendments. These emissions reductions are documented in the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb*, which is available in the docket for this rulemaking.

C. What are the cost impacts?

We estimate that the proposed 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 proposed amendments, see the memorandum, *Impacts for Revision of Internal Floating Roof Storage Vessel (Tank) Inspection Requirements Subject to 40 CFR Part 60 Subpart Kb*, which is available in the docket for this rulemaking.

D. What are the economic impacts?

As noted earlier, we estimated a nationwide cost savings associated with the proposed amendments. Therefore, we do not expect the actions in this proposed 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.

E. What are the benefits?

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

V. Request for Comments

The EPA is soliciting comment on the discrete proposed change to NSPS Kb that would allow affected storage vessels equipped with either an EFR or IFR to voluntarily elect to comply with the requirements specified in NESHAP WW, as an alternative standard, in lieu of the requirements of NSPS Kb. We are considering only the use of the proposed alternative standard that is discussed in this preamble. We are not soliciting comment on, nor do we intend to make changes to, any other provisions of NSPS Kb or NESHAP WW aside from incorporating this proposed alternative standard.

VI. 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 OMB for review.

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

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed 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 proposed 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 1854.12. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

See section III.A of this preamble (“What actions are we proposing?”) for a description of the proposed alternative standard. Information about inspection activities related to NSPS Kb is collected to assure compliance with NSPS Kb. Most of the costs associated with the proposed 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 WW is expected to be less than the time needed to complete an out-of-service inspection pursuant to NSPS Kb. Therefore, we anticipate a cost savings. This ICR documents the incremental burden imposed by the proposed 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 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 m³ 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 m³ 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.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to OIRA_submission@omb.eop.gov, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA will respond to any ICR-related comments in the 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 proposed alternative standard is optional; therefore, small entities are not required to comply with the proposed 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.

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.

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 proposes to amend 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.* 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 m³ 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 m³ but less than 151 m³ 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.

(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 NSPS Kb and NESHAP 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 and submit with the report required under §63.1066 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 and submit with the report required under §63.1066 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 paragraph 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 that have not met the 5-year record retention required by the introductory paragraph 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.