

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, and 271

[FRL-5328-4]

RIN 2060-AB94

Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of postponed effective date.

SUMMARY: This document postpones the effective date of the final rule on Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers until June 6, 1996.

EFFECTIVE DATE: The final rule will be effective as of June 6, 1996. The EPA specified in the final rule a schedule that established the compliance dates by which different requirements of the final rule must be met. These compliance dates and requirements are explained further in the final rule (59 FR 62896, December 6, 1994) under SUPPLEMENTARY INFORMATION. This document changes only the effective date of the standards. The effective date will be June 6, 1996 for all provisions of the standards, including the applicability of 40 CFR part 265 subparts AA, BB, and CC to 90-day accumulation units at hazardous waste generators, the applicability of 40 CFR part 265 subparts AA, BB, and CC to Resource Conservation and Recovery ACT (RCRA) permitted units, and the applicability of the final standards to tanks in which waste stabilization activities are performed. All other compliance dates for the final rule remain as published in the final rule (59 FR 62896.)

ADDRESSES: Docket. The supporting information used for the final rule is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to the final rule are F-91-CESP-FFFFF, F-92-CESA-FFFFF, F-94-CESF-FFFFF, F-94-CE2A-FFFFF, and F-95-CE3A-FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 260-9327.

FOR FURTHER INFORMATION CONTACT: For information about this postponement contact the RCRA Hotline at (800) 424-9346 toll-free, or (703) 920-9810.

SUPPLEMENTARY INFORMATION:

1. Postponement of December 6, 1995 Effective Date

This notice announces the postponement of the effective date for the final Air Emission Standards published under the RCRA. These final standards were published on December 6, 1994 (59 FR 62896) and were originally scheduled to become effective as of June 5, 1995. On May 19, 1995 (60 FR 26828) the EPA postponed the effective date until December 6, 1995 to allow time for the EPA to identify provisions of the final standards that require clarification, and to publish a Federal Register notice to clarify such provisions. The EPA expects to publish that notice in the near future.

Subsequently, on August 14, 1995 the EPA published a Federal Register document entitled, "Proposed rule; data availability" (60 FR 41870) and opened RCRA docket F-95-CE3A-FFFFF to accept comments on revisions that the EPA is considering for the final standards. The provisions of the final rule that these revisions would affect are the waste determination procedures, the standards for containers, and the applicability of the final standards to units that operate air emission controls in accordance with certain Clean Air Act standards. In addition, these revisions would reduce the monitoring, record keeping, and reporting requirements for affected tanks, surface impoundments, and containers.

The EPA accepted public comments on the appropriateness of these revisions through October 13, 1995. The EPA is now reviewing the comments received by the docket and will determine whether to revise the final rule to incorporate the described revisions. The incorporation of these revisions would provide certain compliance options for waste determination procedures and for container standards that are not currently available in the published final rule. By January of 1996, the EPA expects to complete its review of the public comments, and publish a Federal Register notice explaining the EPA's decision if and how to amend the rule.

Given that the EPA intends to clarify provisions of the rule and is actively considering amending the rule in ways that would increase compliance flexibility and possibly reduce certain regulatory requirements, the EPA considers it appropriate to delay the December 6, 1995 effective date for six months. This delay will both allow the ongoing administrative review process to be completed successfully, and allow ample time for facilities to make any necessary alterations to their compliance plans before the effective date of the standards.

The EPA has received a request that it stay the rule, from a party that has brought a judicial challenge to the published rule. In taking this action to postpone the rule's effective date, the EPA is not concurring that the criteria for a stay (such as likelihood of irreparable harm or likelihood that these parties will ultimately prevail should the rule be litigated) are met. Rather, as a prudential matter, the EPA believes that a six month delay is appropriate for the reasons explained above.

2. Retention of Final Compliance Date of December 8, 1997

The December 6, 1994 published rule set a final compliance date of December 8, 1997, by which time all required air emission control equipment must be operating (59 FR 62897). The EPA does not believe that postponing the effective date of this rule necessitates any postponement of the December 8, 1997 compliance date. The final compliance date was chosen to allow time for facility modifications that may be involved in the compliance approach of certain facilities. The EPA believes that, for many air emission control applications, the required control devices can be installed and in operation within several months. However, the EPA agrees that under some circumstances, the owner's or operator's approach to complying with the air emission control requirements under the subpart CC standards may involve a major design and construction project which requires a longer time to complete. In recognition of these cases, the EPA decided that it is reasonable to allow up to December 8, 1997 for affected facilities to install and begin operation of air emission controls required by the subpart CC standards. (Hazardous Waste TSD Background Information Document for Promulgated Organic Air Emission Standards, EPA-453/R-94-076b, page 9-7.)

The final rule requirements that may necessitate a major modification, as described above, for tanks are paragraphs (b) through (d) of 40 CFR parts 264.1084 and 265.1085. These paragraphs specify air emission control equipment that must be operated on tanks receiving affected hazardous waste. Similarly, the requirements that may necessitate such a major modification for surface impoundments are paragraphs (b) through (e) of 40 CFR parts 264.1085 and 265.1086. These paragraphs specify air emission control equipment that must be operated on surface impoundments receiving affected hazardous waste. To comply with these requirements for tanks and surface impoundments, facilities may choose to construct new hazardous waste management units to replace existing units, or may choose to modify existing hazardous waste management units. Examples of facility equipment modifications that could require an extended period of compliance would be replacing a large open surface impoundment with a series of covered tanks, or fitting an existing open tank with a fixed roof vented to a control device. The EPA recognizes that such major modifications or new construction can require several months or more, and therefore allows until December 8, 1997 for facilities to comply with the air emission control requirements of the final subpart CC standards.

In addition, certain States may require that a facility obtain a permit modification prior to performing a major modification such as those described above. The EPA recognizes that such permit modifications can be a lengthy process, and therefore felt it was appropriate to afford an extended compliance period to allow such modifications to be obtained (59 FR 62919). The EPA does not expect that such a lengthy period of implementation would be required in circumstances other than those described above, although such a period is available if necessary.

The final rule provisions that justified a compliance date of December 8, 1997 are not among those that are potentially affected by the revisions currently under the EPA's consideration. Specifically, the EPA is not considering changes to the requirements for covers and air emission controls on tanks and surface impoundments. All affected facilities have been on notice of the final rule air emission control requirements for these units since the final

rule publication on December 6, 1994. Therefore, the EPA does not consider it appropriate to postpone the compliance date of December 8, 1997, by which all required air emission control equipment must be operating.

3. Conclusion

The EPA is postponing the effective date of the final rule until June 6, 1996. The final rule text affected by this postponement is amended as follows.

Dated: October 31, 1995.

Mary D. Nichols, Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 264, 265, and 271 of the Code of Federal Regulations are amended as follows:

PART 264 -- STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

Subpart CC -- Air Emission Standards for Tanks, Surface Impoundments, and Containers

2. Section 264.1080 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 264.1080 Applicability.

* * * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before June 6, 1996, and in which no hazardous waste is added to the unit on or after this date.

* * * * *

(c) For the owner and operator of a facility subject to this subpart and who received a final permit under RCRA section 3005 prior to June 6, 1996, the requirements of this subpart shall be incorporated into the permit when the permit is reissued in accordance with the requirements of 40 CFR 124.15 of this chapter or reviewed in accordance with the requirements of 40 CFR 270.50(d) of this chapter. Until such date when the owner and

operator receives a final permit incorporating the requirements of this subpart, the owner and operator is subject to the requirements of 40 CFR part 265, subpart CC.

PART 265 -- INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart CC -- Air Emission Standards for Tanks, Surface Impoundments, and Containers

4. Section 265.1080 is amended by revising paragraph (b)(1) and paragraph (c) introductory text to read as follows:

§ 265.1080 Applicability.

* * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before June 6, 1996, and in which no hazardous waste is added to the unit on or after this date.

* * * *

(c) For the owner and operator of a facility subject to this subpart who has received a final permit under RCRA section 3005 prior to June 6, 1996, the following requirements apply:

* * * *

5. Section 265.1082 is amended by revising paragraphs (a) introductory text, paragraph (a)(1), (a)(2), (a)(2)(iii), and (a)(2)(iv) to read as follows:

§ 265.1082 Schedule for implementation of air emission standards.

(a) Owners or operators of facilities existing on June 6, 1996, and subject to subparts I, J, and K of this part shall meet the following requirements:

(1) Install and begin operation of all control equipment required by this subpart by June 6, 1995, except as provided for in paragraph (a)(2) of this section.

(2) When control equipment required by this subpart cannot be installed and in operation by June 6, 1996, the owner or operator shall:

* * * * *

(iii) For facilities subject to the recordkeeping requirements of § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in the operating record no later than June 6, 1996.

(iv) For facilities not subject to § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in a permanent, readily available file located at the facility no later than June 6, 1996.

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>>>> Part 271 has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

[FR Doc. 95-27950 Filed 11-9-95; 8:45 am]
BILLING CODE 6560-50-P