
40 C.F.R. § 264.1080

Applicability.

- (a) The requirements of this subpart apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either subpart I, J, or K of this part except as § 264.1 and paragraph (b) of this section provide otherwise.
- (b) The requirements of this subpart do not apply to the following waste management units at the facility:
- (1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.
 - (2) A container that has a design capacity less than or equal to 0.1 m .
 - (3) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
 - (4) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
 - (5) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar Federal or State authorities.
 - (6) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act.
 - (7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of § 264.1084(i), except as provided in § 264.1082(c)(5).
 - (8) A tank that has a process vent as defined in 40 CFR 264.1031.
- (c) For the owner and operator of a facility subject to this subpart who received a final permit under RCRA section 3005 prior to December 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 permit is reissued in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40 CFR 270.50(d), the owner and operator are subject to the requirements of 40 CFR
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part 265, subpart CC.

(d) The requirements of this subpart, except for the recordkeeping requirements specified in § 264.1089(i) of this subpart, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, “organic peroxide” means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(2) The owner or operator prepares documentation, in accordance with the requirements of § 264.1089(i) of this subpart, explaining why an undue safety hazard would be created if air emission controls specified in §§ 264.1084 through 264.1087 of this subpart are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section.

(3) The owner or operator notifies the Regional Administrator in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section are managed at the facility in tanks or containers meeting the conditions of paragraph (d)(2) of this section. The notification shall state the name and address of the facility, and be signed and dated by an authorized representative of the facility owner or operator.

(e)

(1) Except as provided in paragraph (e)(2) of this section, the requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

(2) Notwithstanding paragraph (e)(1) of this section, any hazardous waste surface impoundment operated at the Stonewall Plant is subject to:

(i) The standards in § 264.1085 and all requirements related to hazardous waste surface impoundments that are referenced in or by § 264.1085, including the closed-vent system and control device requirements of § 264.1087 and the recordkeeping requirements of § 264.1089(c); and

(ii) The reporting requirements of § 264.1090 that are applicable to surface impoundments and/or to closed-vent systems and control devices associated with a surface impoundment.

(f) This section applies only to the facility commonly referred to as the OSi Specialties Plant, located on State Route 2, Sistersville, West Virginia (“Sistersville Plant”).

(1)

(i) Provided that the Sistersville Plant is in compliance with the requirements of paragraph (f)(2) of this section, the requirements referenced in paragraphs (f)(1)(iii) and (f)(1)(iv) of this section are temporarily deferred, as specified in paragraph (f)(3) of this section, with respect to the two hazardous waste surface impoundments at the Sistersville Plant. Beginning on the date that paragraph (f)(1)(ii) of this section is first implemented, the temporary deferral of this paragraph shall no longer be effective.

(ii)

(A) In the event that a notice of revocation is issued pursuant to paragraph (f)(3)(iv) of this section, the requirements referenced in paragraphs (f)(1)(iii) and (f)(1)(iv) of this section are temporarily deferred, with respect to the two hazardous waste surface impoundments, provided that the Sistersville Plant is in compliance with the requirements of paragraphs (f)(2)(ii), (f)(2)(iii), (f)(2)(iv), (f)(2)(v), (f)(2)(vi) and (g) of this section, except as provided under paragraph (f)(1)(ii)(B) of this section. The temporary deferral of the previous sentence shall be effective beginning on the date the Sistersville Plant receives written notification of revocation, and continuing for a maximum period of 18 months from that date, provided that the Sistersville Plant is in compliance with the requirements of paragraphs (f)(2)(ii), (f)(2)(iii), (f)(2)(iv), (f)(2)(v), (f)(2)(vi) and (g) of this section at all times during that 18-month period. In no event shall the temporary deferral continue to be effective after the MON Compliance Date.

(B) In the event that a notification of revocation is issued pursuant to paragraph (f)(3)(iv) of this section as a result of the permanent removal of the capper unit from methyl capped polyether production service, the requirements referenced in paragraphs (f)(1)(iii) and (f)(1)(iv) of this section are temporarily deferred, with respect to the two hazardous waste surface impoundments, provided that the Sistersville Plant is in compliance with the requirements of paragraphs (f)(2)(vi), and (g) of this section. The temporary deferral of the previous sentence shall be effective beginning on the date the Sistersville Plant receives written notification of revocation, and continuing for a maximum period of 18 months from that date, provided that the Sistersville Plant is in compliance with the requirements of paragraphs (f)(2)(vi) and (g) of this section at all times during that 18-month period. In no event shall the temporary deferral continue to be effective after the MON Compliance Date.

(iii) The standards in § 264.1085 of this part, and all requirements referenced in or by § 264.1085 that otherwise would apply to the two hazardous waste surface impoundments, including the closed-vent system and control device requirements of § 264.1087 of this part.

(iv) The reporting requirements of § 264.1090 that are applicable to surface impoundments and/or to closed-vent systems and control devices associated with a surface impoundment.

(2) Notwithstanding the effective period and revocation provisions in paragraph (f)(3) of this section, the temporary deferral provided in paragraph (f)(1)(i) of this section is effective only if the Sistersville Plant meets the requirements of paragraph (f)(2) of this section.

(i) The Sistersville Plant shall install an air pollution control device on the polyether methyl capper unit (“capper unit”), implement a methanol recovery operation, and implement a waste minimization/pollution prevention (“WMPP”) project. The installation and implementation of these requirements shall be conducted according to the schedule described in paragraphs (f)(2)(i) and (f)(2)(vi) of this section.

(A) The Sistersville Plant shall complete the initial start-up of a thermal incinerator on the capper unit's process vents from the first stage vacuum pump, from the flash pot and surge tank, and from the water stripper, no later than April 1, 1998.

(B) The Sistersville Plant shall provide to the EPA and the West Virginia Department of Environmental

Protection, written notification of the actual date of initial start-up of the thermal incinerator, and commencement of the methanol recovery operation. The Sistersville Plant shall submit this written notification as soon as practicable, but in no event later than 15 days after such events.

(ii) The Sistersville Plant shall install and operate the capper unit process vent thermal incinerator according to the requirements of paragraphs (f)(2)(ii)(A) through (f)(2)(ii)(D) of this section.

(A) Capper unit process vent thermal incinerator.

(1) Except as provided under paragraph (f)(2)(ii)(D) of this section, the Sistersville Plant shall operate the process vent thermal incinerator such that the incinerator reduces the total organic compounds (“TOC”) from the process vent streams identified in paragraph (f)(2)(i)(A) of this section, by 98 weight-percent, or to a concentration of 20 parts per million by volume, on a dry basis, corrected to 3 percent oxygen, whichever is less stringent.

(i) Prior to conducting the initial performance test required under paragraph (f)(2)(ii)(B) of this section, the Sistersville Plant shall operate the thermal incinerator at or above a minimum temperature of 1600 Fahrenheit.

(ii) After the initial performance test required under paragraph (f)(2)(ii)(B) of this section, the Sistersville Plant shall operate the thermal incinerator at or above the minimum temperature established during that initial performance test.

(iii) The Sistersville Plant shall operate the process vent thermal incinerator at all times that the capper unit is being operated to manufacture product.

(2) The Sistersville Plant shall install, calibrate, and maintain all air pollution control and monitoring equipment described in paragraphs (f)(2)(i)(A) and (f)(2)(ii)(B)(3) of this section, according to the manufacturer's specifications, or other written procedures that provide adequate assurance that the equipment can reasonably be expected to control and monitor accurately, and in a manner consistent with good engineering practices during all periods when emissions are routed to the unit.

(B) The Sistersville Plant shall comply with the requirements of paragraphs (f)(2)(ii)(B)(1) through (f)(2)(ii)(B)(3) of this section for performance testing and monitoring of the capper unit process vent thermal incinerator.

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