Dated: March 22, 2006.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(131) to read as follows:

### § 52.120 Identification of plan.

* * * * *

(c) * * *

(131) The following amended rules were submitted on December 30, 2004, by the Governor's designee.

(i) *Incorporation by reference.* (A) Arizona Department of Environmental Quality.

(*1*) Rule R18–2–602, adopted effective on May 14, 1979 and amended effective on March 16, 2004.

(*2*) Rules R18–2–1501, R18–2–1502, R18–2–1503, R18–2–1504, R18–2–1505, R18–2–1506, R18–2–1507, R18–2–1508, R18–2–1509, R18–2–1510, R18–2–1511, R18–2–1512, and R18–2–1513, adopted effective on October 8, 1996 and amended effective on March 16, 2004.

(B) Pima County Department of Environmental Quality.

(*1*) Rule 17.12.480, amended on October 19, 2004.

(C) Pinal County Air Quality Control District.

(*1*) Rules 3–8–700 and 3–8–710, adopted effective on June 29, 1993 and amended on October 27, 2004.

* * * * *

[FR Doc. 06–4516 Filed 5–15–06; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2005–0563; FRL–8171–1]**

## Approval and Promulgation of Implementation Plans; Wisconsin; Wisconsin Construction Permit Permanency SIP Revision; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects an error in the amendatory instruction in a final rule which published on February 28, 2006, pertaining to revisions to the Wisconsin State Implementation Plan which make permanent all terms of Wisconsin's permits to construct, reconstruct, replace or modify sources unless the terms are revised through a revision of the construction permit or issuance of a new construction permit.

**EFFECTIVE DATE:** This correcting amendment is effective on May 16, 2006.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–8328, or by e-mail at *panos.christos@epa.gov*.

**SUPPLEMENTARY INFORMATION:** EPA published a document on February 28, 2006, (71 FR 9934) adding § 52.2587, when § 52.2587 was already reserved by a previous rulemaking action. This document corrects this error by redesignating § 52.2587 as § 52.2589.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice

and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of May 16, 2006. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR part 52 for Minnesota is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 5, 2006.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, title 40, chapter I of the Code of the Federal Regulations is amended as follows:

## PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**§ 52.2587 [Redesignated]**

■ 2. Section 52.2587 is redesignated as § 52.2589.

[FR Doc. 06–4551 Filed 5–15–06; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 261

**[SW–FRL–8169–5]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is granting a petition submitted by Bayer Material Science LLC (Bayer) to exclude (or delist) a certain solid waste generated by its Baytown, TX plant from the lists of hazardous wastes. This final rule responds to the petition submitted by Bayer to delist K027, K104, K111, and K112 spent carbon generated from the facility's waste water treatment plant.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 7,728 cubic yards per year of the spent carbon.

**DATES:** *Effective Date:* May 16, 2006.

**ADDRESSES:** The public docket for this final rule is located at the EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA's Freedom of Information Act review room on the 7th floor from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is [R6–TXDEL–FY06–Bayer–Spent Carbon]. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD–C), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. For technical information concerning this notice, contact Michelle Peace, EPA Region 6, 1445 Ross Avenue, (6PD–C), Dallas, Texas 75202, at (214) 665–7430, or *peace.michelle@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

I. Overview Information
- A. What Action Is EPA Finalizing?
- B. Why Is EPA Approving This Action?
- C. What Are the Limits of This exclusion?
- D. How Will Bayer Manage the Waste, If It Is Delisted?
- E. When Is the Final Delisting Exclusion Effective?
- F. How Does this Final Rule Affect States?

II. Background
- A. What Is a Delisting?
- B. What Regulations Allow Facilities To Delist a Waste?
- C. What Information Must the Generator Supply?

III. EPA's Evaluation of the Waste Information and Data
- A. What Waste Did Bayer Petition EPA To Delist?
- B. How Much Waste Did Bayer Propose To Delist?
- C. How Did Bayer Sample and Analyze the Waste Data in This Petition?

IV. Public Comments Received on the Proposed Exclusion
- Who Submitted Comments on the Proposed Rule?

V. Statutory and Executive Order Reviews

### I. Overview Information

*A. What Action Is EPA Finalizing?*

After evaluating the petition, EPA proposed, on February 14, 2006, to exclude the waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 71 FR 7704). EPA is finalizing the decision to grant Bayer's delisting petition to have its spent carbon generated from treating waste waters at the plant subject to certain continued verification and monitoring conditions.

*B. Why Is EPA Approving This Action?*

Bayer's petition requests a delisting from the K027, K104, K111, and K112, waste listings under 40 CFR 260.20 and 260.22. Bayer does not believe that the petitioned waste meets the criteria for which EPA listed it. Bayer also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's final decision to delist waste from Bayer's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Baytown, TX facility.