Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This proposed rule fits paragraph 34(g) as it suspends a portion of an existing safety and security zone and adds a temporary safety and security zone.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 165.160 [Amended]

■ 2. Suspend paragraphs(a)(2) and (b) within § 165.160 from July 8, 2005 to January 8, 2006.

■ 3. Add temporary § 165.T01–072 from July 8, 2005 to January 8, 2006 to read as follows:

§ 165.T01–072 Safety and Security Zone: Designated Vessels, New York Captain of the Port Zone.

(a) *Location.* The following areas are safety and security zones: All waters of the New York Marine Inspection Zone and Captain of the Port Zone within a 100-yard radius of any Designated Vessels.

(b) Designated Vessels (DVs). For the purposes of this section, *Designated Vessels* include: Ferries, as defined in 46 CFR 2.10–25, that are certificated to carry 150 or more passengers; other vessels certificated to carry 150 or more passengers; vessels carrying government officials or dignitaries requiring protection by the U.S. Secret Service, or other Federal, State or local law enforcement agency; and barges or ships carrying petroleum products, chemicals, or other hazardous cargo.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels must comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels. Upon being hailed by siren, radio, flashing light or other means from a U.S. Coast Guard vessel or other vessel with on-scene patrol personnel aboard, the operator of the vessel shall proceed as directed.

(3) The Captain of the Port will notify the maritime community of periods during which these zones will be enforced by methods in accordance with 33 CFR 165.7.

(d) *Effective Dates.* This rule will be enforced from July 8, 2005 to January 8, 2006.

Dated: July 8, 2005.

Glenn A. Wiltshire,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 05–14588 Filed 7–22–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05–OAR–2004–IN–0001; FRL–7930–9]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 9, 2002, the Indiana Department of Environmental Management (IDEM) submitted a request that EPA approve a revision to its process weight rate rule into the Indiana State Implementation Plan (SIP). The revision clarifies rule applicability, corrects incorrect weights presented in the process weight rate table included in the rule, allows certain sources to demonstrate compliance with the rule by adopting and substituting work standard practices, clarifies the definitions of particulate and particulate matter, and reduces duplicative recordkeeping requirements contained in the rule. EPA is approving the State's request.

DATES: This ''direct final'' rule is effective on September 23, 2005, unless EPA receives adverse written comments by August 24, 2005. If EPA receives adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–IN–0001, by one of the following methods: Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Agency Web site: *http://docket.epa.gov/rmepub/.* Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: *mooney.john@epa.gov.*

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05–OAR–2004–IN–0001. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail 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, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Christos Panos, Environmental Engineer, at (312) 353–8328 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328; *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is rulemaking on a revision to the process weight rate rules in the Indiana SIP. The rules establish limitations for particulate emissions from manufacturing processes in Indiana.

B. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an electronic public rulemaking file available for inspection at RME under ID No. R05–OAR–2004–IN–0001, and a hard copy file which is available for inspection at the Regional Office. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include CBI or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

2. Electronic Access. You may access this **Federal Register** document electronically through the regulations.gov Web site located at *http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and that are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking Region 5 Air Docket R05–OAR–2004–IN–0001'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

II. What Is the Background for This Action?

On July 9, 2002, the State of Indiana submitted a requested revision to the Indiana SIP. These amendments concern Title 326 of the Indiana Administrative Code (326 IAC) 6–3, the State's process weight rate rule. The main purposes of the rule amendments were to:

(1) Clarify rule applicability by narrowing the definition of ''process'' to manufacturing processes and by expanding the list of exempted sources;

(2) Correct incorrect weights presented in the process weight rate table included in this rule;

(3) Substitute work standard practices for surface coating manufacturing processes instead of demonstrating compliance with the emission factor derived from the process weight rate table;

(4) Clarify the definitions of ''particulate'' and ''particulate matter''; and

(5) Reduce duplicative record keeping requirements.

These changes are discussed in greater detail below.

III. What Changes Did the State Include in This Sip Revision Request and What Is EPA's Analysis of These Revisions?

Rule 326 IAC 6–3–1 Applicability

In section 1(a), the new term ''manufacturing processes'' has been

substituted for the term ''process operations'' in the earlier version of the rule. The term ''manufacturing processes'' is defined to consist of processes that are associated with the production of a product, as opposed to things such as maintenance and housekeeping activities.

This definition change clarifies IDEM's original intent in promulgating the rule. Thus, ''manufacturing process'' encompasses all of the sources and activities of the former definition of ''process.'' The State made this change to increase the rule's precision and to distinguish the term ''manufacturing process'' from the term ''process'' in 326 IAC 1–2–58. This revision will neither add to nor delete sources that are currently subject to 326 IAC Article 6.

Section 1(b) adds additional manufacturing process exemptions for the following sources: (1) For dip coating, roll coating, flow coating and brush coating processes subject to the requirements of 326 IAC 11–1, (2) for welding using less than 635 pounds of rod or wire per day, (3) for torch cutting using less than 3,400 inches per hour of stock one inch or less in diameter, (4) for noncontact cooling tower systems, (5) for applications of aerosol coating products used to repair minor surface damage and imperfections, (6) for trivial activities as defined in 326 IAC 2–7–1(40),[1] (7) for manufacturing processes with potential emissions less than .0551 pounds per hour, and (8) for surface coating manufacturing processes not listed in (1) above that use less than 5 gallons per day.

All but five of these exemptions are for sources whose emissions Indiana considers to be ''de minimis,'' *i.e.*, with potential emissions less than 0.551 pound/hour. Combustion for indirect heating, incineration, open burning and foundry cupolas are regulated in other sections of the SIP. According to IDEM, noncontact cooling tower systems are inherently compliant under the equation used to determine emission rates in 326 IAC 6–3–2(e).

Revised Section 1(c) states that Rule 326 IAC 6–3–1 shall not apply if a particulate matter limitation established in a new source permit or other rule is more stringent.

326 IAC 6–3–1.5 Definitions

This new section of this rule contains definitions for ''aerosol coating products,'' ''manufacturing process,'' ''particulate,'' ''particulate matter'' and ''surface coating.'' These definitions are to be used if there is a conflict between 326 IAC 6–3 and 326 IAC 1–2.

326 IAC 6–3–2 Particulate Emission Limitations, Work Practices, and Control Technologies

Revised Section 2(a) states that any manufacturing process listed in subsections (b) through (d) shall follow the stated work practices and control technologies. All other manufacturing processes subject to rule 326 IAC 6–3 shall calculate emission limitations according to requirements in subsection(e). Subsection (a) also provides for the calculation of a particulate emission limit based on the following equation: $E=8.6P^{0.67}$ for cement manufacturing kilns commencing operation prior to December 6, 1968 and with process weight equal to or below 30 tons per hour. If process weight is greater than 30 tons per hour, the emission limit is based on the following equation: $E=15.0P^{0.50}$, where E is the Emission rate in pounds per hour and P is the process weight rate in tons per hour.

Revised Section 2(c) provides that catalytic cracking units commencing operation prior to December 6, 1968 and equipped with cyclone separators, electrostatic precipitators or other gas-cleaning systems shall recover 99.97% or more of the circulating catalyst or total gas-borne particulate.

Revised Section 2(d) provides that surface coating, reinforced plastics composites fabricating manufacturing processes and graphic arts manufacturing processes shall be controlled by a dry particulate filter, waterwash, or an equivalent control device subject to: (1) Operation in accordance with manufacturer's specifications; and (2) if overspray is visibly detected at the exhaust or accumulates on the ground, the source shall inspect the control device and either repair it or operate it so that no overspray is visibly detectable. If overspray is detected, the source shall maintain a record of the action taken as a result of the inspection, any repairs of the control device, or change in operations so that overspray is not visibly detected. These records must be maintained for 5 years. The significant change in 2(d) is that the rule acknowledges that if overspray is detected a repair may be unnecessary, where an operating change can eliminate the overspray.

Revised Section 2(d)(3) exempts sources from the requirements of Section 2(d)(2) so long as they operate according to a valid permit issued under 326 IAC 2–7, 326 IAC 2–8 or 326 IAC 2–9.

Revised Section 2(d)(4) exempts surface coating manufacturing processes that use less than five gallons of coating per day, as defined in 326 IAC 1(b)(15) of this rule. If coating application rates increase to greater than five gallons per day, at any time, control devices must be in place. A manufacturing process that is subject to this subsection shall remain subject to it notwithstanding any subsequent decrease in gallons of coating used.

Revised Section 2(e) provides that manufacturing processes, to which control measures listed in subsections (b) through (d) above do not apply, shall calculate allowable emissions utilizing the process weight rate table incorporated in this subsection of the rule. The allowable rate of emission shall be based on the process weight rate for a manufacturing process. When the process weight rate is less than 100 pounds per hour, the allowable rate of emissions is 0.551 pound per hour. When the process weight rate exceeds 200 tons per hour, the allowable emission may exceed that shown in the table, provided the concentration of particulate in the discharge gasses to the atmosphere is less than 0.10 pound per 1,000 pounds of gasses.

EPA has reviewed these rule revisions and determined that incorporating them into the Indiana SIP is appropriate. The changes made to the rules are minor in scope. They clarify rule applicability, correct incorrect weights presented in the process weight rate table included in the rule, allow certain sources to demonstrate compliance with the rule by adopting and substituting work standard practices, clarify the definitions of particulate and particulate matter, and reduce duplicative record keeping requirements contained in the rule.

Indiana did not intend for low-emitting processes to be subject to the original process weight rule. These source do not jeopardize the PM National Ambient Air Quality Standards, nor are they subject to Prevention of Significant Deterioration, New Source Review, or other State permitting requirements. Applying this rule to such small sources would impose unreasonable administrative and compliance burdens on these sources.

IV. Rulemaking Action

For the reasons stated above, EPA approves the incorporation into the Indiana SIP of 326 IAC 6–3–1, 6–3–1.5 and 6–3–2. We are publishing this action without prior proposal because we view this as a noncontroversial

[1] This section defines particulate matter emissions with an aerodynamic diameter less than or equal to ten (10) micrometers (PM_{10}) and potential uncontrolled emissions that are equal to or less than one (1) pound per day as trivial.

amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective September 23, 2005 without further notice unless we receive relevant adverse written comments by August 24, 2005. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective September 23, 2005.

V. Did Indiana Hold a Public Hearing?

The State of Indiana Air Pollution Control Board (Board) held three public hearings on these rule revisions. Four commenters provided testimony at the first public hearing held on April 12, 2001. Seven commenters provided testimony at the second public hearing held on August 1, 2001. These comments led to revisions of the rule which was then presented to the Board for final adoption at the third public hearing held on February 6, 2002. Although two commenters provided testimony at this hearing, the Board determined that these comments were previously addressed and warranted no further action.

VI. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (*58 FR 51735*, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' 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).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will 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 (*59 FR 22951*, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does 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, as specified in Executive Order 13132 (*64 FR 43255*, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (*62 FR 19885*, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 16, 2005.

Margaret Guerriero,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, 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 P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(160) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(160) On July 9, 2002, Indiana submitted revised process weight rate rules as a requested revision to the Indiana State Implementation Plan. The changes clarify rule applicability, correct errors in the process weight rate table, allow sources to substitute work standard practices instead of the process weight rate table. They clarify the definitions of particulate and particulate matter. They also reduce duplicative recordkeeping.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules Rule 3: Particulate Emission Limitations for Manufacturing Process. 6–3–1 Applicability, 6–3–1.5 Definitions and 6–3–2 Particulate emission limitations, work practices, and control technologies. Adopted by the Indiana Air Pollution Control Board on February 6, 2002. Filed with the Secretary of State May 13, 2002, effective June 12, 2002.

[FR Doc. 05–14601 Filed 7–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7940–3]

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 liquid 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 treated effluent 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 18,071,150 cubic yards (5.745 billion gallons) per year of the Outfall 007 Treated Effluent. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when discharged in accordance with the facility's TPDES permit.

EFFECTIVE DATE: July 25, 2005.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA 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–FY04–BAYER]. 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), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

For technical information concerning this document, contact Michelle Peace, Environmental Protection Agency 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?

After evaluating the petition, EPA proposed, on October 4, 2004 to exclude the waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 69 FR 59156). EPA is finalizing the decision to grant Bayer's delisting petition to have its Outfall 007 Treated Effluent 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