

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 action 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 December 10, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section in this issue of the **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Industrial facilities, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: October 2, 2024.

**David Cash,**

*Regional Administrator, EPA Region 1.*

For the reasons stated in the preamble, part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 62—APPROVAL AND PROMULGATION OF STATE PLAN FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

■ 2. Revise § 62.4980 to read as follows:

##### § 62.4980 Identification of Plan—negative declaration.

On May 3, 2018, the Maine Department of Environmental Protection submitted a letter certifying no existing sources subject to 40 CFR part 60, subpart DDDD operate within the State’s jurisdiction.

■ 3. Revise § 62.5475 to read as follows:

##### § 62.5475 Identification of Plan—negative declaration.

On December 18, 2018, the Massachusetts Department of Environmental Protection submitted a letter certifying no existing sources subject to 40 CFR part 60, subpart DDDD operate within the Commonwealth’s jurisdiction.

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 261

[EPA–R06–RCRA–2024; FRL–12229–01–R6]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending an exclusion for Bayer Material Science LLC, Baytown, Texas facility to reflect changes in ownership and name.

**DATES:** This rule is effective October 11, 2024.

**FOR FURTHER INFORMATION CONTACT:** Eshala Dixon, RCRA Permits & Solid Waste Section (LCR–RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270, phone number: 214–665–6592; email address: [dixon.eshala@epa.gov](mailto:dixon.eshala@epa.gov).

**SUPPLEMENTARY INFORMATION:** In this document EPA is amending appendix IX to part 261 to reflect a change in the ownership and name of a particular facility. This action documents the transfer of ownership and name change by updating appendix IX to incorporate the change in owner’s name for the Bayer Material Science LLC, Baytown, TX facility for the exclusion from hazardous waste (K027) (K104) (K111) and (K112) from the wastewater treatment plant. The exclusion or

“delisting” was granted to Bayer Material Science LLC on July 25, 2005 (see 70 FR 49187). The EPA has been notified that the transfer of ownership of the Bayer Material Science LLC, Baytown, TX facility to Covestro Industrial Park Baytown occurred on September 1st 2015. Covestro has certified that it plans to comply with all the terms and conditions set forth in the delisting and will not change the characteristics of the wastes subject to the exclusion at the Baytown, TX facility. This action documents the change by updating appendix IX to incorporate a change in name.

The changes to appendix IX to part 261 are effective October 11, 2024. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of the Resource Conservation and Recovery Act (RCRA) to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. As described above, the facility has certified that it is prepared to comply with the requirements of the exclusion. Therefore, a six-month delay in the effective date is not necessary in this case. This provides the basis for making this amendment effective immediately upon publication under the Administrative Procedures Act pursuant to 5 United States Code (U.S.C.) 553(d). The EPA has determined that having a proposed rulemaking and public comment on this change is unnecessary, as it involves only a change in company ownership, with all of the same delisting requirements remaining in effect.

#### List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: September 30, 2024.

**Helena Healy,**

*Director, Land, Chemicals and Redevelopment Division, Region 6.*

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

#### PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. Amend table 1 of Appendix IX to part 261 by removing the second entry for “Bayer Material Science LLC” “Baytown, TX” and adding an entry for “Covestro Industrial Park Baytown” in alphabetical order by facility.

The addition reads as follows:

**Appendix IX to Part 261—Waste  
Excluded Under §§ 260.20 and 260.22**

**TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES**

Facility	Address	Waste description
Covestro Industrial Park Baytown.	Baytown, TX .....	<p>Outfall 007 Treated Effluent (EPA hazardous Waste No. K027, K104, K111 and K112) generated at a maximum rate of 18,071,150 cubic yards (5.475 billion gallons) per calendar year after July 25, 2005, as it exits the Outfall Tank and disposed in accordance with the TPDES permit. The delisting levels set do not relieve Bayer of its duty to comply with the limits set in its TPDES permit. For the exclusion to be valid, Covestro must implement a verification testing program that meets the following Paragraphs:</p> <p>(1) Delisting Levels: All concentrations for those constituents must not exceed the maximum allowable concentrations in mg/kg specified in the paragraph.</p> <p>Outfall 007 Treated Effluent Total Concentrations (mg/kg): Antimony-0.0816; Arsenic-0.385, Barium-22.2; Chromium-153.0; Copper-3620.0; Cyanide-0.46; Mercury-0.0323; Nickel-11.3; Selenium-0.23; Thallium-0.0334; Vanadium-8.38; Zinc; 112.0; Acetone-14.6; Acetophenone-15.8; Aniline-0.680; Benzene-0.0590; Bis(2ethylhexyl)phthalate-1260.0; Bromodichloromethane-0.0719; Chloroform-0.077; Di-n-octyl phthalate-454.0; 2,4-Dinitro-toluene-0.00451; Diphenylamine-11.8; 1,4-Dioxana-1.76; Di-n-butyl phthalate-149.0; Fluoranthene-24.6; Methylene chloride-0.029; Methyl ethyl ketone-87.9; Nitrobenzene-0.0788; m-phenylenediamine-0.879; Pyrene-39.0; 1,1,1,2-Tetrachloroethane-0.703; o-Toluidine-0.0171; p-Toluidine-0.215; 2,4-Toluenediamine-0.00121. Toluene diisocyanate-0.001.</p> <p>(2) Waste Holding and Handling:</p> <p>(A) Waste classification as non-hazardous cannot begin until compliance with the limits set in paragraph (1) for the treated effluent has occurred for two consecutive quarterly sampling events and those reports have been approved by the EPA.</p> <p>The delisting for the treated effluent applies only during periods of TPDES compliance.</p> <p>(B) If constituent levels in any sample taken by Covestro exceed any of the delisting levels set in paragraph (1) for the treated effluent, Covestro must do the following: (i) notify EPA in accordance with paragraph (6) and (ii) Manage and dispose the treated effluent as hazardous waste generated under Subtitle C of RCRA (iii) Routine inspection and regular maintenance of the effluent pipe line must occur to prevent spills and leaks of the treated effluent prior to discharge.</p> <p>(1) Testing Requirements: Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by references in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (used EPA method 1664, Rev A), 9071B and 9095B. Methods must meet Performance based Measurement System Criteria in which Data Quality objectives are to demonstrate that representative samples of the Covestro treated effluent meet the delisting levels in paragraph (1).</p> <p>(A) Quarterly Testing: Upon the exclusion becoming final, Covestro may perform quarterly analytical testing by sampling and analyzing the treated effluent as follows (i) Collect two representative composite samples of the treated effluent at quarterly intervals after EPA grants the final exclusion. The first composite samples may be taken at any time after EPA grants the final approval. Sampling should be performed in accordance with the sampling plan approved by EPA in support of the exclusion. (ii) Analyze the samples for all constituents listed in paragraph (1). Any composite sample taken that exceeds the delisting levels listed in paragraph (1) for the treated effluent must be disposed of as a hazardous waste in accordance with the applicable hazardous waste requirements in its TPDES discharge permit. (iii) Within thirty (30) days after taking its first quarterly sample, Covestro will report its first quarterly analytical test date to EPA. If levels of constituents measured in the samples of the treated effluent do not exceed the levels set forth in paragraph (1) of this exclusion for two consecutive quarters, Covestro can manage and dispose the nonhazardous treated effluent according to all applicable solid waste regulations.</p> <p>(B) Annual Testing: (i) If Covestro completes the four (4) quarterly testing events specified in paragraph (3) (A) above and no samples contains a constituent with a level which exceeds the limits set forth in paragraph (1), Covestro may begin annual testing as follows: Covestro must test two representative composite samples of the treated effluent for all constituents listed in paragraph (1) at least once per calendar year. (ii) The samples for the annual testing shall be a representative composite sample according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used with substitution. As applicable the SW-846 methods might include Methods 0010, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020A, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (used EPA Method 1664 Rev. A) 9071B and 9005B. Methods must meet Performance Based Management System Criteria in which the Data Quality Objectives are to demonstrate that representative samples of the Covestro treated effluent testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken.</p>

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

## Facility

- (1) Changes in Operating Conditions: If Covestro significantly changes the process describes in its petition or starts any process that generates(s) the waste that may or could affect the composition or type of waste generated as established under paragraph (1) (by illustration, but not limitation changes in equipment or operating conditions of the treatment process), it must notify EPA in writing; it may no longer handle the waste generated from the new process as nonhazardous until the waste meet the delisting levels set in paragraphs (1) and it has received written approval to do so from EPA. Covestro must submit a modification to the petition complete with full sampling and analysis for circumstances where volume changes and/or additional waste codes are added to the waste stream.
- (2) Data Submittals: Covestro must submit the information described below. If Covestro fails to submit the required data within the specified time or maintain the required records on site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (6). Covestro must: (i) Submit the data obtained through paragraph (3) to the Section Supervisor, RCRA Corrective Action, UST, Solid Waste and Permit Branch, EPA Region 6 1201 Elm Street Suite 500, Dallas, Texas 75270, Mail Code, (6LCR-RC) within the time specified. (ii) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (iii) Furnish these records and data when either EPA or the State of Texas request them for inspection. (iv) Send along with all data signed copy of following certification statement, to attest to the truth and accuracy of the data submitted:
- “Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928, I certify that the information contained in or accompanying this documents is true, accurate and complete.
- Also, to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having a supervisory responsibility for the persons who, acting under my direct instructions made the verification that this information is true, accurate and complete.
- If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.”
- (3) Reopener: (i) If, any time after disposal of the delisted waste Covestro possess or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste including that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director within 10 days of first possessing or being made aware of that data. (ii) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph (1) Covestro must report the data, in writing, to the Division Director with 10 days of first possessing or being made aware of that data. (iii) If Covestro fails to submit the information described in paragraph (5), (6)(i), or (6)(ii) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (iv) if the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information. (v) Following the receipt of information from the facility described in paragraph (6)(iv) or (if no information is presented under paragraph (6)(iv)(ii) the initial receipt of information described in paragraphs (5)(6)(i) or (6)(ii), the Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Directors' determination shall become effective immediately, unless the Division Director provides otherwise.

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