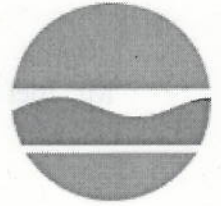


**New York State Department of Environmental Conservation**  
**Division of Solid & Hazardous Materials**  
**Bureau of Hazardous Waste & Radiation Management**  
625 Broadway, Albany, NY 12233-7258  
Phone: (518) 402-8594 • FAX: (518) 402-9025  
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March 23, 2006

Mr. Joel E. Robinson  
Bayer Material Science LLC  
100 Bayer Road, Building 14  
Pittsburgh, PA 15205-9741

Dear Mr. Robinson:

Re: Bayer, Hicksville, NY; USEPA ID No. NYD002920312; AOC 45 ICM Soil  
Removal Work Plan Responses to NYSDEC Comments, March 9, 2006

The New York State Department of Environmental Conservation (Department) reviewed the AOC 45 ICM Soil Removal Work Plan and the Responses referenced above. The Department approves the Work Plan and the Responses, with the condition that Bayer satisfactorily address the comments below prior to implementation of on-site activities.

- Response 2

On page 3 the response states that, "The notable difference between the inside and outside of the proposed excavation and the high density of delineation further support that post-excavation verification sampling is not needed."

The Department agrees with this statement, except for soil boring VS-45-20 where the deepest sampling interval at 20 to 22 feet resulted in a PCB concentration of 320 mg/kg. At this location excavation is proposed to 24 feet. Bayer must show that the PCB concentration at the 24 foot depth is below 50 mg/kg.

- Response 9

On page 7 the response states that, "Based on the results of the Rural Soil Survey and the outcome of the soil cleanup objective development process, it seems reasonable that the proposed excess clean fill material obtained from offsite, which contains arsenic slightly above the 12 ppm background value reported in TAGM 4046, could be used as either surface or subsurface fill material."

The soil cleanup objectives being developed are specifically for Brownfield sites only. They may or may not be used for RCRA sites, at the discretion of the program. Since the arsenic concentration is just slightly above the TAGM 4046 value, the NYSDOH would have to determine if the soil can be used for surface or subsurface fill material.

Mr. Joel E. Robinson

Page 2

If you have any questions, please contact me at (518) 402-8594.

Sincerely,

/s/

Alicia Barraza  
Environmental Engineer  
Hazardous Waste Engineering Eastern Section

cc: J. Reidy, EPA Region II  
John Brussel, BBL - Syracuse Office  
Wendy Keuhner, NYSDOH

ecc: D. Evans  
K. Murphy, Region 1