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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 10 2007

OFFICE OF  
POLICY, ECONOMICS  
AND INNOVATION

Mr. Salvatore J. Tranchina, Manager  
Environmental Engineering & Operations  
International Business Machines Corporation  
Hudson Valley Research Park  
2070 Route 52  
Hopewell Junction, NY 12533-3507

Dear Mr. Tranchina:

We would like to officially close-out the record on the IBM East Fishkill F006 Sludge Recycling XL Project. This XL project has been terminated under Section 11 of the Final Project Agreement signed September 29, 2000, by your letter "Withdrawal from Project XL," dated June 2, 2006. We have initiated the publication of a Federal Register Notice (draft enclosed) withdrawing the proposed rule and supplemental proposal, "Project XL Site-specific Rulemaking for the IBM Semiconductor Manufacturing Facility in Hopewell Junction, New York," published on June 06, 2001 (FRL-6992-5) and April 14, 2003 (FRL-7480-7) respectively.

We are notifying all the signatories to the Final Project Agreement of the official project close-out by copy of this letter. You can view EPA's current project record on the IBM East Fishkill XL Project by clicking on <http://www.epa.gov/projectxl/fishkill/index.htm>.

Thank you for your participation in Project XL. If you have any questions about this notice, please contact Sandra Panetta at 202-566-2184.

Sincerely,

A handwritten signature in blue ink that reads "Jay Benforado".

Jay Benforado, Director  
National Center for Environmental Innovation

cc: Alan J. Steinberg, Regional Administrator, EPA Region 2  
Pete Grannis, Commissioner, New York State Department of Environmental Conservation  
Eric C. Schneider, IBM East Fishkill Senior Location Executive

Enclosure: Draft FR Notice

DRAFT

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

**FRL**

RIN: 2090-AA29

**IBM Semiconductor Manufacturing Facility in Hopewell Junction, NY, Under Project XL.**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Proposed rule and supplemental proposal: withdrawal

**SUMMARY:** The Environmental Protection Agency (EPA) is today withdrawing a proposed rule and supplemental proposal published on June 06, 2001 (FRL-6992-5) and April 14, 2003 (FRL-7480-7) respectively, which would have modified the regulations under the Resource, Conservation and Recovery Act (RCRA) to enable the implementation of the IBM East Fishkill Facility F006 Sludge Recycling project that was developed under EPA's Project eXcellence in Leadership (Project XL) program. Project XL was a national pilot program that allowed state and local governments, businesses and federal facilities to work with EPA to develop more cost-effective ways of achieving environmental and public health protection. In exchange, EPA provided regulatory, policy or procedural flexibilities to conduct the pilot experiments.

EPA is withdrawing the proposed rule and supplemental proposal in response to IBM's letter of withdrawal from the project, dated June 02, 2006 citing sale of the East Fishkill Facility's West Complex which generated the F006 sludge that would have been recycled in this pilot. EPA had proposed to provide the IBM East Fishkill Facility with the regulatory flexibility to carry out a pilot project involving the use of certain wastewater treatment sludges as ingredients in the production of cement under Project

XL. The proposed rule and supplemental proposal would have provided a site-specific exclusion in 40 CFR 261.4(a) (i.e., materials which are not solid wastes.”) for the wastewater treatment sludge generated at the IBM East Fishkill facility’s West Complex, when used as an ingredient in the production of cement. The proposed site-specific exclusion was to remain in effect until 5 years from the effective date of the final rulemaking, which was never published. However, following the publication of the proposed rule and supplemental proposal, IBM sold the West Complex, and the generation of wastewater treatment sludge has been discontinued.

**DATES:** The proposed rule and supplemental proposal, “Project XL Site-specific Rulemaking for the IBM Semiconductor Manufacturing Facility in Hopewell Junction, New York” published on June 06, 2001 (FRL-6992-5) and April 14, 2003 (FRL-7480-7) respectively, are withdrawn as of [Date 30 days after publication date of this notice.]

**FOR FURTHER INFORMATION CONTACT:** Sandra Panetta, Mail Code 1870T, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Ms.

Panetta’s telephone number is (202)566-2184 and her email address is

[panetta.sandra@epa.gov](mailto:panetta.sandra@epa.gov). Further information on today’s action may also be obtained on the internet at <http://www.epa.gov/projectxl/fishkill/index.htm>.

**SUPPLEMENTARY INFORMATION:** Regulatory Impact: Because this action withdraws notices of proposed rulemakings, it is neither a proposed or final rule and is

therefore not covered under Executive Order 12866, the Regulatory Flexibility Act, or other Executive Orders and statutes that generally apply to those rulemakings.

Dated:

Stephen L. Johnson,

Administrator