

Adoption of Regulations to Implement ECL § 17-0826-a (Sewage Pollution Right to Know Act)

Assessment of Public Comments

Introduction

In June of 2015, proposed regulations to implement the Sewage Pollution Right to Know Act (“SPRTK”) were filed with the Department of State and public comments on the proposed regulations were accepted from June 17, 2015 until the close of business on August 3, 2015. Identical proposed SPRTK regulations were re-filed with the Department of State on June 13, 2016 and an additional public comment period was provided from June 29, 2016 until the close of business on August 15, 2016. This Assessment of Public Comments responds to all substantive comments received during both public comment periods. Comments were compiled, reviewed, and categorized based on their content. DEC categorized the comments into six topics:

1. Comments on CSO reporting requirements;
2. Comments on implementation of the law;
3. Comments on the draft regulations and process;
4. Comments clarifying definitions used in draft regulations.
5. Comments taken into consideration but resulting in no changes to the final regulations
6. Comments not applicable to the draft regulations

1. CSO Reporting Requirements

Comment 1.1: "Wet Weather CSO Reporting"

- Comment 1.1.1 Clarification is needed regarding the type of "discharges" that need to be reported pursuant to 6 NYCRR Parts 750 and 621.
- Comment 1.1.2 We have seen with the department's current data collection for two hour reporting that there are counties that have not reported a single discharge. It has been evidenced that unless it is clearly mandated for all CSOs to report, there will be communities that do not report at all. The above changes must be incorporated to insure that the public is notified regardless of where they live. There are counties that have CSOs which been complying with reporting and notification requirements even though they are "observation" CSOs. For example, Westchester has numerous CSOs that are observation only, and they have complied with reporting requirements.
- Comment 1.1.3 Given how large a contributor CSOs are to the amount of raw sewage discharged in New York, it is critically important that the public is made aware when these overflow events occur. The Sewage Pollution Right to Know law, § 17-0826-a, explicitly states the inclusion of CSOs in reporting requirements. We commend the department for including CSOs in the proposed regulations for Sewage Pollution Right to Know, NYCRR part 750-2.7; however, no CSOs should be excluded from reporting requirements.
- Comment 1.1.4 Currently, there are very few CSOs with telemetered discharge monitoring and detection. While the department is working to provide funding for communities to install monitoring and modeling, with or without this technology, all CSO events must be reported.
- Comment 1.1.5 I believe the public should be notified of all discharges of raw or partially treated sewage, and all combined sewer overflows via a common alert system. Please ensure all possible discharges are reported if they have the capacity to reach waters of the State - which could lead to a dangerous public health situation.
- Comment 1.1.6 All CSO discharges should be reportable.
- Comment 1.1.7 CSOs are already covered under a separate set of reporting requirements. This additional reporting requirement again opens the "Permitted" facility up to more negative press and creates additional work for the operator. Our operators are good environmental stewards, more education to the public is necessary. In addition, the SPRTK Act notes "knowable with existing systems and models". Many CSO Operators have completed simulations using their existing long term control plan models based on precipitation measurements that provide reasonable approximation of when a CSO event starts. This is sufficient for issuing the initial notifications and provides the information required in the SPRTK Act. Please note until the model has been run after the end of an event, it will be unknown when the CSO ends.
- Comment 1.1.8 The department's draft regulations leave many CSOs exempt from reporting spills, even though in areas like Buffalo they are the primary culprit of sewage contamination along local beaches and waterways. These systems overflow even in light rain or melting snow as wastewater and sewage enters the same line. I ask that you include CSOs in reporting regulations so that my constituents are notified promptly when our most common form of sewage pollution takes place.
- Comment 1.1.9 For these modeled CSOs, the regulations must require Regulated Entities to report overflows whenever actual or predicted rainfall is sufficient to cause CSOs, according to models.

- Comment 1.1.10 The regulations should require Regulated Entities to report whenever CSOs may reach state waters, consistent with requirements for other discharges in the regulations.
- Comment 1.1.11 The Sewage Pollution Right to Know law, § 17-0826-a, explicitly states the inclusion of CSOs in reporting requirements. We commend the department for including CSOs in the proposed regulations for Sewage Pollution Right to Know, NYCRR part 750-2.7; however, no CSOs should be excluded from reporting requirements..... It is critically important that all CSO communities be required to report CSOs to the extent knowable with existing systems or models as required by SPRTK. If operator ignorance about CSOs discharges is “rewarded” by having no reporting requirements, operators will not be motivated to add predictive models or telemetering to their systems...
- Comment 1.1.12 No CSOs should be exempt from reporting requirements. All owners and operators of CSOs must be required to alert the public when a rain event may lead to CSOs reaching local waterways.

Response to Comment 1.1:

The department requires all dry weather discharges to be reported. Wet weather reporting for individual POTWs and POSSs that have CSOs is required with “existing systems and models” (17-0826-a.1.). As required by SPDES permits and the department consent orders each POTW/POSS with CSOs has unique capabilities for detecting CSO discharges ranging from no detection to monitoring of some outfalls to system-wide CSO hydraulic computer simulations models. Subsequent to the SPRTK effective date of May 1, 2013, the department has been requiring increased use of CSO public notification tools. Some recent examples are the Albany Pool and Onondaga County CSO notification websites. To facilitate CSO reporting, the department has also developed NY-ALERT CSO report template which has the capability of linking to additional CSO information that is required by the department. CSO communities must use NY-Alert to notify the public of a wet weather event upon discovery with their existing systems and models.

Comment 1.2: “FAQs Regarding the SPRTK Law”

- Comment 1.2.1 The department prepared July 2015 Sewage Pollution Right to Know Law and Regulations, Frequently Asked Questions (FAQ) indicates under "Are municipalities required to report CSO events?" that: "Yes, If a municipality has as CSO discharge during dry weather, they are required to report the discharge through the NY-Alert system." As the BSA strictly adheres to it's the department approved Long Term Control Plan (LTCP) and SPDES permit in operation, this appears to imply that wet weather CSO related discharge reporting is unnecessary. Contrary to the published FAQ, the proposed regulations appear to promulgate onerous reporting.
- Comment 1.2.2* The same considerations apply to the five-day written incident reports, which should similarly be eliminated from the final rule for CSO events.

Response to Comment 1.2:

The department is updating its published FAQs to be consistent with the new regulations. The SPRTK Law requires reporting of “discharges of untreated or partially treated sewage, including combined sewer overflows.” The department has provided and continues to make improvements to the NY-ALERT CSO reporting template. The department has accepted input from POTWs/POSSs that are required to use the CSO template to facilitate reporting of discharges. Also see response 1.1.

Comment 1.3: “Guidance on Estimating Wet Weather CSO Information”

- Comment 1.3.1 It was brought up during the July 7, 2015 public meeting on the proposed SPRTK regulations that the department will be providing trainings to operators in order to teach them techniques for estimating the volume of an overflow event. Between these trainings and operators' general knowledge of their systems, we believe all CSOs can comply with the above suggested changes.
- Comment 1.3.2 Reporting Time Line – RCSD's SPDES permit (Item #1) has staff inspect once a week. RCSD staff finds a plugged regulating chamber that is overflowing to the river. In many cases, the plug is identified and corrected within a half hour of discovery and the overflow condition ceases. The question remains, how long has it been plugged and how much wastewater has reached the Hudson River. Without a sophisticated surveillance/monitoring system there is no way of knowing if the plug happened five minutes after staff left the previous week or five minutes before staff arrived this week. Cost issues, Item #2 and the Public Health issues #3.

Response to comment 1.3:

The department has guidance posted on the SPRTK website (<http://www.dec.ny.gov/chemical/90323.html>) and has conducted training sessions to assist operators in estimating required information using best professional judgement.

Comment 1.4: "Wet Weather CSO Reporting Burden"

- Comment 1.4.1 If the proposed reporting requirements are deemed applicable to BSA's permitted CSS, we estimate that compliance would require tens of thousands of dollars each year. Further, the data reported may not be in a form that would be readily used by the general public, making it more of an administrative tool than a public water quality resource.

Response to comment 1.4:

CSOs contribute a large volume of pollutants to the waters of the state. It benefits the public to know where and when these discharges are likely to happen. The information is to assist the public in making informed decisions about where to recreate.

Comment 1.5: "Wet Weather CSO Modeling"

- Comment 1.5.1 Again, note until the model has been run after the end of the event, it will be unknown when various CSOs stop.
- Comment 1.5.2 Discrete model runs to simulate the impact of a rainstorm on a CSO system oftentimes requires consulting services which may have higher costs.

Response to comment 1.5:

Through SPDES permits and Orders on Consent, the department has worked with POTWs and POSSs to develop cost effective CSO notification tools that use computer simulation information to inform the public on the probability of a CSO discharge. Recent examples of user friendly CSO public notification tools are the Albany Pool and Onondaga County website, both of which convert sewer system computer simulations to useful public information. The Part 750 regulations require CSO discharge reporting to the extent knowable using existing systems and models. The department will continue to develop guidance and training for the reporting of CSO discharges.

Comment 1.6: "CSO Notification on Waterbody Basis"

- Comment 1.6.1 Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points."

- Comment 1.6.2 A majority of our permitted combined sewer outfalls are in close proximity to each other and discharge to the same waterbody. During a wet weather event, if there are discharges occurring at multiple outfalls to the same waterbody, only one notification should be required. Having the ability/flexibility on the Sewage Discharge Report Form to report discharges from multiple outfalls to the same waterbody as one discharge and not individual reports for each outfall to the same waterbody makes sense. This will provide clarity and eliminate any confusion that multiple notifications/alerts to the public and elected officials may have. This will also save time for the user reporting the discharges and allow them to focus on addressing the actual discharges. Additional language should be added to the proposed rule to allow this.
- Comment 1.6.3 Furthermore, §750-2.7(b)(2)(iii) allows for advisories to be done on a waterbody basis rather than by individual combined sewer overflow points; however, CSO communities are unsure how this would work with NY-Alert considering the need to enter specific location information for geographic coordinates, etc.
- Comment 1.6.4 Furthermore, §750-2.7(b)(2)(iii) allows for advisories to “be done on a waterbody basis rather than by individual combined sewer overflow points”; however, CSO communities are unsure how this would work with NY-Alert considering the need to enter specific location information for geographic coordinates, etc.
- Comment 1.6.5 Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points.

Response to comment 1.6:

CSO communities may make notifications on a waterbody basis. The department will work with CSO communities to comply with Part 750 regulations and customize their NY-Alert accounts, as well as develop guidance to assist with reporting. The department has created CSO facility numbers for communities with multiple CSO discharge points. We are recommending that they create a template and use a discharge point for the location on the map to enter data. Daily and termination reports are not required for wet weather CSO events.

See responses 1.1., 1.2 and 1.5

Comment 1.7: “CSO Detection Technology”

- Comment 1.7.1 Communities with CSOs that currently lack monitoring or modeling should be encouraged to and offered assistance to improve monitoring and modeling, and use this technology to improve public reporting of discharges.

Response to comment 1.7:

The department is currently finalizing a grant to assist small to medium sized CSO communities to purchase and install CSO detection devices. These devices may be simple detection devices, advanced flow meters, remote communication, or public notification systems. This grant was announced on April 18, 2016. Information on this grant is available on DEC’s website at: XX See responses 1.1, 1.2, and 1.5.

Comment 1.8: “Common Notification System for CSO Discharges”

- Comment 1.8.1 Additionally, all discharges--including combined sewer overflows--should be reported as soon as possible to the public, utilizing a common communications system for all types of discharges covered by the law.
- Comment 1.8.2 Some CSO systems are doing independent reporting and the department should require those systems to integrate into NY-Alert. All observed CSOs should do reporting through NY-Alert.

- Comment 1.8.3 Environmental Advocates recommends the following changes to part 750-2.7 (b) (2) iii:
“(iii) Additional notification requirements for discharges from combined sewer overflows. For combined sewer overflows for which real-time telemetered discharge monitoring and detection does not exist, owners and operators of POTWs and POSSs must [shall make reasonable efforts to] expeditiously issue advisories through appropriate electronic media as determined by the department ...
- Comment 1.8.4 Many overflows in New York State are Combined Sewer Overflows (CSOs) from Combined Sewer Systems (CSSs). These systems are the single largest source of sewage entering our waters in a typical year, accounting for billions of gallons of raw sewage and posing a significant public health threat. It is critically important that the public is promptly made aware when and where these overflow events occur.
- Comment 1.8.5 It is equally important that CSO notifications be integrated into the NY-Alert and the department public notifications. The public and the press cannot reasonably be expected to visit multiple sites to track down all applicable water quality advisories. This is especially true for out-of-town visitors who may not know that they are swimming in the waters of a CSO system.
- Comment 1.8.6 Unfortunately, the proposed requirements for reporting of modeled and observed CSOs are insufficient. The regulations must clearly require reporting of modeled outfalls consistent with requirements for reporting monitored CSOs, and clearly state that observed CSOs must be reported whenever they are known to Regulated Entities
- Comment 1.8.7 Regulated Entities should report modeled CSOs using the same communication systems used to report other types of discharges, such as NY-Alert; the public should not have to check multiple websites, or register for multiple notification services, in order to be alerted to discharges that could harm them.
- Comment 1.8.8 The current reporting system, NY-Alert, is sufficiently flexible to allow for reporting of this type of discharge, when volume, duration and other key variables may be unknown or uncertain.

Response to comment 1.8:

The SPRTK law and final regulations state that applicable discharges under SPRTK must be reported using an electronic media system approved by the Department. CSO permittees must use existing systems and models, in conjunction with the NY-Alert CSO reporting template, to report wet weather CSO discharges. The department has developed guidance for reporting wet weather CSO discharges. The department continues to work with communities that have CSO outfalls to improve notification tools. The department is providing guidance to link these notification tools to the CSO reporting template in NY-Alert. See responses 1.1, 1.2 and 1.5.

2. Implementation of the Law

Comment 2.1: "Upgrading Technology"

- Comment 2.1.1 Access to smart phones/cell service, computer/internet service, open part time, etc.
- Comment 2.1.2 Some municipalities may need to upgrade their computer systems to comply with the two hour reporting and four hour notification provisions of the proposed rule.
- Comment 2.1.3 Furthermore, there are some smaller facilities without internet access which will require that they incur additional costs.

Response to comment 2.1:

SPR TK (17-826-a.2) requires notice "...through appropriate electronic media, **including, but not limited to** electronic mail or voice mail communications **as determined by the department.**" To comply with this provision the department has modified the NY-ALERT system to report discharges of untreated and partially treated sewage. The department acknowledges that reporting through NY-ALERT requires internet access. If access to this is not available at a wastewater treatment plant, notifiers using the reporting system determined by the department must use a computer available to the municipality, i.e. at the town, village, or city hall. In addition, the department recommends authorizing multiple notifiers for each facility.

Comment 2.2: "Reporting of All Discharges"

- Comment 2.2.1 I support the legislation to make the public immediately aware of any spills anywhere.
- Comment 2.2.2 Please explain how this law does not apply to this incident but applies only to flooding not to traffic spills. Thank you.
- Comment 2.2.3 There is no logic for any exemptions or differentiation of public/private or other categories. All discharges present a situation of potential public harm.
- Comment 2.2.4 What is being done about privately owned septic systems (think cottages and homes on a lake) that have the potential to affect ALL residents and others who use that lake? What is the "right to know about sewage contamination" for this group of people?
- Comment 2.2.5 Non POTW SPDES Permittees and privately owned sewer systems are exempt from the Sewage Pollution Right to Know Law proposed rules. These permittees and sewer systems have the same potential for unpermitted discharges which can adversely affect public health and the environment. The current language for the proposed rule should be changed so Sewage Pollution Right to Know Law reporting applies to all SPDES permittees and sewer systems.
- Comment 2.2.6 Discharges from private, institutional and commercial sources should be reported publicly, just as are discharges from publicly owned treatment works and sewer systems covered under the Law.

Response to comment 2.2:

Changes to Part 750 for the SPR TK Law (17-0826-a.1.) only apply to reporting of sewage discharges, and is applicable only to POTWs and POSSs. Privately owned sewage treatment plants or collection systems are not required to report under SPR TK. Privately owned sewage treatment and collection systems must still adhere to current Part 750 reporting requirements applicable to these facilities.

Comment 2.3: "POSS I&I Requirements"

Comment 2.3.1 The City recommends that the department further require POSS owners and operators to pass sewer use laws equivalent to the department's Model Sewer Use Law to eliminate existing sources of infiltration and inflow into the collection system, and to prevent new sources of infiltration and inflow.

Response to comment 2.3:

Infiltration and Inflow from POSSs are controlled by 6 NYCRR 750-2.9 (a)(3) which requires POTWs to control excessive infiltration and inflow to the tributary system to the extent economically feasible. 6 NYCRR 750-2.9(a)(4) requires POTWs to enact Sewer Use Laws and inter-municipal agreements to "...control discharges, either directly or through jurisdictions contributing flows to the POTW, flow and loads to the POTW as well as discharges to the POTW."

Comment 2.4: "POSS Registration Outreach"

Comment 2.4.1 What will the penalty be for a POSS not initially identified by the department?
Response to comment 2.4:

The department will follow current enforcement guidance. The department is making significant outreach efforts to inform POSSs of the SPRTK law and to register them for NY-Alert.

Comment 2.5: "De Minimis Reporting Volume"

Comment 2.5.1 There should be some guidelines for the minimum amount that has to be reported.

Comment 2.5.2 A comparison between the plain language of the SPRTK Act and the Regulatory Impact Statement for the changes to 6 NYCRR Parts 750 and 621 demonstrates a potential disconnect between the Legislative intent and the department's interpretation. An example of a logical precondition would be a de minimis volume threshold. A minor discharge of minimal volume that may be quickly contained presents no adverse public impact threat. Other preconditions may include time of the year, weather conditions, or other relevant factors that local health departments use when assessing potential impacts.

Response to comment 2.5:

There is no de minimis quantity specified in the SPRTK law. All untreated and partially treated sewage discharges to ground water or surface water, irrespective of volume, must be reported immediately, but in no case later than two hours of discovery. With respect to notifying the general public of discharges as soon as possible, but no later than four hours from discovery of a discharge, such notifications are required where the discharge may present a threat to public health. The Department consulted with the Department of Health and it was determined not to include a minimum volume in the regulations and that four hour notifications to the general public should be limited to surface water discharges.

Comment 2.6: "POSS Operation and Maintenance"

Comment 2.6.1 Is there an outline for an O & M manual for POSS?
Response to comment 2.6:

There are technical documents available online from various sources like the Water Environment Federation, NYWEA, and EPA. The department has posted examples of these documents on its website. The department has developed a list of resources which is listed on the SPRTK website at: <http://www.dec.ny.gov/chemical/103735.html>

Comment 2.7: “Maintaining Contact Information for Adjoining Municipalities”

- Comment 2.7.1 A more reasonable approach would be for municipalities themselves to assume responsibility for updating their contact information in NYALERT. Such an approach would ensure timely and accurate updates that reflect personnel changes or a municipality's own judgment as to who should be notified.

Response to comment 2.7:

The department acknowledges this concern and the difficulty associated with maintaining email and/or phone contact information. The department is discontinuing the requirement for POTWs and POSSs to submit contact information on the NY-Alert registration application for adjoining municipalities. The department revised the proposed regulations such that POTWs and POSSs are in compliance with the requirement to report sewage discharges to adjoining municipalities if they register to use NY-Alert and submit timely and sufficient reports through NY-Alert. This change was made to reflect that adjoining municipalities have free access to NY-Alert.

Comment 2.8: “SPRTEK Enforcement Policy”

- Comment 2.8.1 Laws must also be enacted that would adequately fine those businesses and cities that pollute the river from sewage overflow and other forms of pollution. Thank you for your time.
- Comment 2.8.2 It says that the department can take formal/informal action against the wastewater utility. There needs to be support for the professional operator's that the department has certified and provided licenses.
- Comment 2.8.3 Compliance with SPRTEK has been spotted with some communities consistently reporting and others not at all. This not only leaves the public at risk, it also skews data and can misinform investment and enforcement decisions. Save the Sound urges the department to add an enforcement provisions to the regulations that will establish penalties for non-reporting under the act.

Response to comment 2.8:

Enforcement is done using current policies and procedures. ECL Article 71, Title 19 already provides provisions that may be used enforce compliance with SPRTEK and its implementing regulations. The department refers to TOGS 1.4.2 when pursuing compliance and enforcement of the SPDES program. See <http://www.dec.ny.gov/regulations/2652.html>.

Comment 2.9: “POSS Registration and Identification”

- Comment 2.9.1 Are POSSs only to receive registrations, not permits?
- Comment 2.9.2 The proposed rule would also require owners of POSSs to obtain registrations and notify the department of a change in facility ownership or operation. They would also be required to properly operate and maintain their facilities, file five day written incident reports, and allow the department to conduct inspections and copy records. The department estimates that there are approximately 300 POSSs statewide. We strongly suggest outreach to the regions since they have to approve new districts. There should be a record of how many POSSs have been approved.
- Comment 2.9.3 Clarification is needed regarding the publically owned sewer system (POSS) registrations. Newly numbered §750-1.22 is for “SPDES registrations for publicly owned sewer systems”; however, §750-1 is specifically titled “Obtaining a SPDES Permit”. Based on conversations with the department, it is NYWEA's understanding that POSSs are only to receive registrations, not permits. Please verify/clarify this.

- Comment 2.9.4 How will the department ensure that POSS's are complying with the reporting requirements? The POTW in our sewer district receives flows from 3 separate POSS's all without their own SPDES number. The department should assign POSS's their own SPEDS numbers as a means to track their flows and enforce the same laws that SPDES permit holders are subject to.
- Comment 2.9.5 In the interest of enrolling 100 percent of the POSSs in the state, we strongly suggest that the department post the list of currently registered POSSs and POTWs on the department website and update that list as new registrants enroll. This can be used by groups like Save the Sound and others to identify missing entities and provide those names to the department.

Response to comment 2.9:

POSSs will only receive registrations with identification numbers, not individual SPDES permits. POSS registration requirements are set forth in 750-1.22 of the final rule. Operational requirements for POSSs have been relocated in the final rule to new 750-2.8(g). The final rule revises the headings of 750-1 and 750-2 to reference POSS registrations. The department has posted a list of registered POSSs on its website. DEC has determined that 98% of POTWs and an estimated 70% POSSs have registered with DEC to be authorized to report using NY-ALERT. See response to comments 2.6.

Comment 2.10: "Partially Treated POTW Discharges"

- Comment 2.10.1 While not required under the SPRTK, many the department regions are requesting facility operators to report these discharges (partially treated sewage discharged directly from a POTW that is in compliance with a department approved plan or permit) anyway. These facilities already have established reporting requirements. Additional reporting only serves to promote negative press for these facilities. There needs to be consistency with the department.

Response to comment 2.10:

The modified regulations will supersede previous reporting requirements for reporting of sewage overflows and bypasses from POTWs. The department has conducted internal staff training to improve state-wide consistency,

Comment 2.11: "Electronic Reporting of Sewage Discharges"

- Comment 2.11.1 All reporting should be done through NY-Alert. To make the notification systems accessible to the public, there should be a unified approach to reporting. CCE strongly urges the department to require all systems that must report to do so through NY-Alert
- Comment 2.11.2 I believe the public should be notified of all discharges of raw or partially treated sewage, including approved bypasses from plants, and all combined sewer overflows via a common alert system. Please ensure all possible discharges are reported if they have the capacity to reach waters of the State - which could lead to a dangerous public health situation.
- Comment 2.11.3 I believe the public should be notified of all discharges of raw or partially treated sewage, including approved bypasses from plants, and all combined sewer overflows via a common alert system.
- Comment 2.11.4 Isn't use of the NY-ALERT system a requirement to assure notification consistency? If so, why include language that leads one to believe they can use their own notification system?
- Comment 2.11.5 I believe that the public should be notified via a common alert system about all known discharges of raw or partially treated sewage, including approved bypasses from plants and all combined sewer overflows (CSOs). Otherwise,

people like me will be unknowingly, and unnecessarily swimming in polluted waters!!!

Comment 2.11.6 The Public should learn of sewage threats in the same way it learns of other known hazards. Sewage releases should not be reported to the public differently than thunderstorms or air quality alerts, which are routinely reported via the media.

Comment 2.11.7 Public notice of discharges is the primary purpose of the legislation and the regulations fall far short of this goal; offering no specific information as to how public notification will take place. For example, the statute indicates "the same notification shall also be provided within the same timeframe to the general public, pursuant to regulations to be promulgated under subdivision four of this section through appropriate electronic media, including, but not limited to, electronic mail or voice communication as determined by the department." The regulations indicate only "Within four hours of discovery, owners and operators of POTWs and POSSs must notify the general public of untreated or partially treated sewage discharges, including combined sewer overflows ... through appropriate electronic media as determined by the department." The inclusion of the language "as determined by the department" does not provide clarification and appears to violate the language of the statute which specifies the department's authority to make such a determination in regulations.

Response to comment 2.11:

The SPRTK law and Part 750 regulations state that POTWs and POSSs must use electronic reporting media as determined by the department. The department is not specifying the electronic reporting media in the regulations to accommodate improvements in reporting technology. The department is implementing the SPTRK reporting requirements using NY-ALERT which is provided free of charge for all users.

Comment 2.12: "Suffolk County Reporting"

Comment 2.12.1 Is Suffolk County still exempt from using NY-ALERT? If so, why?

Response to comment 2.12:

Suffolk County is not exempt from using NY-Alert to report sewage discharges.

Comment 2.13: "Notifying Adjoining Municipalities and Public Using NY-Alert"

Comment 2.13.1 CCE urges the department to require that the 4 hour notice goes to news outlets to disseminate the notice as broadly as possible.

Comment 2.13.2 CCE urges the department to require notification to as many neighboring communities as possible, including those downstream who would not necessarily be adjoining, but would be affected.

Comment 2.13.3 Include expeditious notification to local media and alert "downstream" areas of the occurrence.

Comment 2.13.4 Broaden the scope of who will receive notification. To further the reach of NY-Alert, we believe the department should sign press and local media up for NY-Alerts on sewage overflows. Local media already receive alerts about poor air quality, weather, and traffic. They should also receive notifications and report on sewage overflows, as this would not only inform the general public about an overflow event, but it could also bring awareness about NY-Alert.

Comment 2.13.5 When a sewage overflow event takes place, it is often not just one community or location that is affected, as the SPRTK law addresses. In section 2 of § 17-0826-a it is stated that a POTW or operator of a POSS shall notify "...the chief elected official or their authorized designee of any adjoining municipality that may be affected." The proposed language in part 750-2.7 (b) (2) (ii) (a) currently defines "adjoining municipality as "any municipality that is adjacent to the municipality in which the discharge occurred." We believe that the scope of the definition for "adjoining municipality" is too narrow and recommend that the definition is expanded to include any potentially affected communities. We propose: ...adjoining municipality means [any municipality potentially affected and] any municipality that is adjacent to the municipality in which the discharge occurred. We believe that this language will provide inclusion for communities that are located, for example, downstream of a discharge.

Comment 2.13.6 A reading of the plain language of the SPRTK Act demonstrates that the State Legislature only wanted municipal officials to be contacted in areas that may be affected by a discharge, presumably to ensure that meaningful notifications are provided. As presently written, the proposed regulations appear to be diverging from the State Legislature's intent. For example, if the definition is strictly held to those municipalities that are "adjacent", a discharge in Erie County Sewer District No. 3 entered into NY-Alert under the Southtowns AWTF SPDES permit would require notification of all of the following municipalities:

- City of Lackawanna
- Towns of Aurora, Boston, Colden, Concord, Eden, Elma, Evans, Hamburg, North Collins, Orchard Park, West Seneca
- Villages of Blasdell, Hamburg, and Orchard Park

The reality is that considering topography.....a small portion of the above municipalities would ever be affected by a discharge. ECDSM submitted information for eight (of 15 municipalities listed above) through the department's "POTW Notification Application for the Sewage Pollution Right to Know Act". For the vast majority of discharges only one or two municipalities would be potentially affected. The application covered the entire Southtowns SWTF service area, so more than those that would be affected will be notified through NY-Alert. By excluding "that may be affected" from the regulations, even more municipal officials will be contacted for a discharge that would have absolutely no impact on their Village/Town/City. This may lead to municipalities simply ignoring alerts altogether. Additional modifications to the proposed regulations are warranted to meet the State Legislature's intent.

Comment 2.13.7 Ensure all potentially impacted communities are notified (given that oftentimes these spills travel downstream).

Comment 2.13.8 I believe the notification requirements of discharges should be expanded to include the news media and communities living downstream of discharges.

Comment 2.13.9 The legislature intended to provide prompt notification of these discharges to nearby municipalities and the general public so that municipalities may respond appropriately and the public may avoid exposure. Existing regulations do not provide for such notifications. The section needs to be modified to meet the legislative intent of the SPRTK Act. The Act state notifications shall be provided to any adjoining municipality that may be affected. Our stakeholder group raised concerns regarding meaningful health based notifications. The new definition for adjoining municipality does not reflect the intent. We strongly suggest a four hour notification requirement for POTWs and POSSs and that notification to municipalities be within four hours of discovery, owners and

operators of POTWs and POSSs must notify the chief elected official....of any adjoining municipalities that may be affected.....

- Comment 2.13.10 As proposed, 6 NYCRR 750-2.7(b)(2)(ii)(a) requires notification to “any adjoining municipalities.” The Act states that notifications shall be provided to “any adjoining municipality that may be affected.”.....The final rule should explicitly limit the reporting requirement to adjoining municipalities that may be affected, consistent with the regulations’ authorizing legislation....
- Comment 2.13.11 Furthermore, I ask that the department consider more thorough methods of outreach to all affected communities, not just those directly adjacent to the sewage pollution. In my district connected by Lake Erie and in districts throughout the state connected by waterways, water pollution of all kinds knows no municipal boundaries. Many areas downstream of contamination may be affected. Additionally, when it is learned that a spill has occurred, I ask that reporting to the department take place immediately as local media is alerted at the same time. These modifications will give warning to as many affected citizens as possible.
- Comment 2.13.12 NYWEA considers the definition used in new §750-2.7(b)(2)(ii)(a) for an adjoining municipality incomplete to satisfy the plain language of the Act. Therefore, NYWEA suggests the following changes (in bold/italics): New 750-2.7(b)(2)(ii) Four hour notification requirements for POTWs and POSSs.
(a) Notification to municipalities. Within four hours of discovery, owners and operators of POTWs and POSSs must notify the chief elected official, or authorized designee, of the municipality in which the discharge occurred and the chief elected official, or authorized designee, of any adjoining municipalities that may be affected of untreated or partially treated sewage discharges... ... For purposes of this clause, municipality means a city, town or village and adjoining municipality that may be affected means any a municipality that is adjacent to the municipality in which the discharge occurred and is within the flow path of a waterway that may be adversely impacted by the discharge.
- Comment 2.13.13 To better protect downstream communities, we believe that the department should broaden the definition of “adjoining municipalities” which must be notified under the Law to include not only those that share a border, but also those downstream from the point of discharge that may be affected by that discharge.
- Comment 2.13.14 We believe that the scope of the definition for “adjoining municipality” is too narrow and recommend that the definition is expanded to include any potentially affected communities.
- Comment 2.13.15 We propose: “...adjoining municipality means any municipality potentially affected and any municipality that is adjacent to the municipality in which the discharge occurred. “
Section 1 of § 17-0826-a states: “Publicly owned treatment works or the operator of a publicly owned sewer system shall immediately, but in no case later than two hours after discovery, report discharges of untreated or partially treated sewage... “
- Comment 2.13.16 SPRTK requires “adjoining municipalities” to be notified; but part 750-2.7 (b) (2) (ii) (a) of the proposed regulations defines “adjoining municipalities” as “any municipality adjacent to the municipality in which the discharge occurred.” This definition must be broadened to include any municipality that may be affected by the discharge, for example those located downstream of the event.

Response to comment 2.13:

NY-Alert is free and available for the public to sign up and receive alerts. The rule has been revised and now provides that POTWs and POSSs are in compliance with reporting and notification requirements if they register and are approved to use the department approved electronic notification system and submit timely and sufficient reports. Because of this, adjoining municipalities, downstream communities, the public, and media outlets are encouraged to sign up and receive alerts. Information is available on the department's website on how to sign up to receive NY-Alert reports. Media outlets already have access to and may receive all types of NY-Alert public notifications. The department has experienced significantly increased media attention as a result of sewage overflow reports accessed from NY-Alert. The department will continue outreach efforts encouraging the public, municipal officials, and media outlets to sign-up for SPRTK notifications through NY-Alert. The department has also revised the regulation to add the words "that may be affected" to 750-2.7(b)(2)(ii)(a) to more closely align the language of the regulation with the statute.

Comment 2.14: "Upgrading and Improving NY-Alert"

- Comment 2.14.1 Finally, I urge the department to work with federal officials to improve reporting through NY-Alert and make citizen registration easier and more intuitive.
- Comment 2.14.2 NY-Alert system is sometimes difficult to maneuver and CCE supports the department's webpage that feeds the alerts from NY-Alert onto a central page making them accessible for all New Yorkers. CCE would like to see that page direct linked from the department homepage, making it easier for the public to find. The alert page should be formatted for the public to access easily. Alerts should remain on the department's webpage for a minimum of one month. The notification spreadsheet should be updated at least once a week.
- Comment 2.14.3 Additionally, we are concerned that the department's chosen electronic media, NY-Alert, will not reach enough New Yorkers. NY-Alert, while clearly advantageous for data collection and ease of reporting for POTW and POSS operators, is not the easiest for the average New Yorker to navigate, if they are even aware that the system exists. Finally, we have found that the NY-Alert registration system is difficult to navigate. For the average individual seeking to receive notifications about sewage overflows in their area, it is unclear where those alerts can be found. When the initial sign-up is almost complete, there is a page that allows you to select additional notifications and lists notifications that are also available. We recommend that the department look into either including sewage pollution notifications as a notification you can select immediately at that page, or is suggested in the list of optional notifications that can be found by clicking "add notification." Sewage notifications should also have their own title in the types of environmental notifications. Currently, sewage notifications are under "environmental- not otherwise categorized," but this is not clear to the average user. If nothing else, there should be a description indicating what kinds of notifications can be found under the "environmental- not otherwise categorized" selection.
- Comment 2.14.4 Please use the phone system to notify all residents of any sewage release (!) into the waterways.
- Comment 2.14.5 Although not strictly included in these regulations, I believe NY-Alert should be improved through a partnership with federal agencies to make sign-up easier for citizens.
- Comment 2.14.6 Please work to streamline the NY-Alert system to make it more user-friendly. Reducing the time and steps needed to sign up for NY-Alert will encourage more New Yorkers to sign up for this valuable notification system.

- Comment 2.14.7 Completely revamp and re-organize NY-Alert. It is much too difficult for users to register, the verbiage and choices are obscure and confusing, and it is difficult to find sewage release alerts and fails to notify the press, downstream drinking water system operators and others who fail to specifically sign up for the alerts.
- Comment 2.14.8 There has been some confusion when reporting discharges on what information should be provided for some of the sections in the Sewage Discharge Report Form. A brief explanation on the form or a pop-up box which details what information should be entered in each section would be helpful.
- Comment 2.14.9 In addition, we strongly encourage the department to incorporate an automated notification update system, where the NY-ALERT system would send out an email to request that the notifier update or close the previous notification. This would show that the notifier is trying to resolve the discharge and allow the operator to take necessary corrective action.
- Comment 2.14.10 It would be advantageous if the department could include an automated notification update system. In practice. NY-Alert system would send out an e-mail to request that the notifier update or close the previous notification. A system like this would acknowledge that the notifiers are trying to resolve the source of the discharge and streamline the notification process so the operators can get back to fixing the problem rather than spending valuable time navigating through a notification system.
- Comment 2.14.11 Finally, while not strictly part of the regulations, NY-Alert should be improved, through partnership with federal agencies, to make sign-up more intuitive for the end users--the citizens. The law is intended to communicate discharges effectively to people like me, who love and use the waters of New York.
- Comment 2.14.12 The department should work with federal agencies to improve NY-Alert to make the system more user friendly and intuitive for citizens wishing to receive the important public health alerts. The department should add a category defined as "Sewage Discharge Alerts" rather than placing alerts under the Law under "Not Otherwise Categorized"; and include Sewage Discharge Alerts as a category in Public Health, not only in the Environmental category.
- Comment 2.14.13 In its current iteration, the NY-Alert registration system is difficult to navigate and it is unclear where sewage overflow alerts can be found. We know the department recognizes this issue and has been working to address it by posting sign-up instructions on the department website and exploring solutions with the Office of Emergency Management staff. We are not familiar with the technical constraints inherent in NY-Alert but suggest at a minimum that sewage notifications have their own title as a type of environmental notifications and not be lumped into the "environmental - not otherwise categorized" category on the site. Save the Sound is concerned that the NY-Alert notifications will not reach enough New Yorkers to satisfy the public notification goals of the Act, especially low income residents without access to a computer for signing up to the system.

Response to comment 2.14:

The department is using the "environmental conditions" category in NY-Alert because the department is unable to change the standard formatting of NY-Alert set by the department of Homeland Security and Emergency Services. The department uses an RSS feed that provides current active report information directly from NY-Alert. The default active alert time period provided by NY-Alert is 7 days. All alerts are archived on NY-Alerts website and a link is provided on the department's website to this archived list. The department updates a spreadsheet on the department website (<http://www.dec.ny.gov/chemical/90321.html>) with information from NY-Alert periodically. The

department is currently working with NYSITS to develop a database to receive, store, and post reports received in a timelier manner.

In the fall of 2015, the public NY-Alert website underwent a major overhaul by NYSITS and the system contractor to improve the user interface to make it easier to sign up and use. To notify the public, users may set their own preferences to indicate if they wish to receive email, text, or phone notifications. The department cannot change the category of alerts SPRTK falls under as NY-Alert uses the DHSES standard Common Alert Protocol categorization for alert types.

Comment 2.15: "Posting SPRTK Reports on DEC's Website"

- Comment 2.15.1 We noticed quite a few duplicate entries. Some had minor differences, mostly the way addresses were written, making us think that perhaps the notifiers were not receiving confirmation that their report had been logged or the submission page times out by the time they finish filling every entry. Fixing this issue could perhaps eliminate duplicate entries. Based on our research it appeared that a spill caused in multiple locations due to a single event was recorded as multiple incidents. Pointing the location on a map is extremely helpful as the addresses were not uniformly formatted (Off of Cemetery Rd, Rt. 303, etc.).
- Comment 2.15.2 We also found it difficult to access the 5-day reports via the department, so if it is possible to update the 2-hr reports with the actual end date/time and actual volume of spill once the 5-day reports are received, it will be easier to go back and analyze the reports.
- Comment 2.15.3 The spreadsheet of discharge reports on the department website is very useful in providing a history of discharges across the state. Since the NY-Alert system shows only the most recent discharges, we urge the department to continue to maintain and post the spreadsheet on its website. To provide the most accurate and useful data possible, we encourage the department to add the volume discharged and any other additional or revised data from the 5-day report they receive from POTWs to this spreadsheet at a specified interval. To date the volume data has been very scarce and as a result skews the annual reports and other summaries derived from SPRTK data. We expect that an update with data from the 5-day report will help to address this.

Response to comment 2.15:

The department updates the current report archive spreadsheet (<http://www.dec.ny.gov/chemical/90321.html>) on a periodic basis. Part 750-2.7 (d) specifies the requirements for five day reports, which may be waived by the Regional Water Engineer. Five-day reports, if required, are not currently available in a digital format. In addition, the department does not have the capability to update the spreadsheet with information from the 5-day written report. The department is currently developing a database to receive, store, and post reports received in a timelier manner. The department is also evaluating digitizing the five day report to comply with EPA's recently promulgated electronic rulemaking. Also see response to comment 2.16.

Comment 2.16: "Training and Guidance for POTW/POSS Staff"

- Comment 2.16.1 Training for POSS personnel.
- Comment 2.16.2 Further weather conditions were selected in nearly 75% of the reports. In most of those reports, the notifiers wrote in "rain", "wet weather event", etc. in "other explanation." It would be better to expand the set of options to include "rain", "flooding", "high temperature", etc., so the responses are consistent and can be easily analyzed. The Volume/Rate entry should have pre-selected units

(gallons per minute). In our study, we noticed that the “Volume” entry was preceded by “Estimated or actual”, where the notifiers had to select one of the three options - estimated, actual, or unknown. A large majority of the entries were associated with an “unknown” volume (84%). Making a required selection between “estimated” and “actual” would be a welcome step. Similarly, some entries for “treated state” had selected “other” and the explanation mostly included sludge spill or biosolids, so we suggest that “biosolids” be added as a category and an appropriate volume conversion be used to convert the BOD of the sludge to that of an untreated effluent.

- Comment 2.16.3 In the interim that NY-Alert has been live, but regulations have not been promulgated, that have been a few instances in which it was unclear whether a notification is required or not. There was a small spill that occurred on the ground that occurred at the County’s Big Sister Creek Wastewater Treatment Plant in July 2015 during routine operation of the facility’s grit system. The spill was quickly contained and never reached a storm sewer or a water body; however, erring on the side of caution a NY-Alert notification was issued. This type of notification is not particularly useful as there is no threat to public health. Additional written guidance from the department would assist municipalities in making a proper determination of whether certain types of spills or overflows require notifications.
- Comment 2.16.4 This should include systems that lack modeling or monitoring. Where monitors or modeling are lacking the system operators should still have sufficient knowledge to alert the public regarding likely discharges. Discharges now tracked via modeling should be included in the reporting process via the same electronic process as now used for monitored systems.
- Comment 2.16.5 Monroe County has multiple users approved to report discharges using NY-Alert. Having the ability for all users to see discharge report templates created would be beneficial by saving time when reporting a discharge and ensuring consistency when reporting. Possibly one account or log-in (username and password) for a POTW or POSS in which each approved user for the POTW or POSS can log-in to report discharges.
- Comment 2.16.6 Not all discharges require a public notification. This is a case by case or water body by water body determination based on the quantity of the discharge. Notification to the public should be the responsibility of the local health department once an assessment has been completed to determine if there is a public health risk. We have no issues with all discharges being posted on the department website for public view. Our concern is the public will not take notifications seriously if they are routinely notified of discharges especially if the discharge won’t pose a risk to the public.
- Comment 2.16.7 Full attention should be given to corrective action, first and foremost.
- Comment 2.16.8 NYRWA estimates the average time for the professional operator of a small system to gain access to a computer with internet access, fill out and submit the initial notification to be 30 minutes minimum. This time would be better spent taking corrective action.
- Comment 2.16.9 General public must notified of any such discharges to surface water within this same four hour time frame through appropriate electronic media as determined by the department. If the discharge does not go out after four hours, does the queued notification go out after 4 hours? Clarification is needed.
- Comment 2.16.10 The City would also like clarification on the back-up plan for notification under the proposed regulations should NYALERT not be available.
- Comment 2.16.11 What will be the back-up plan for POTWs and POSSs operators to comply with the SPRTK Act should NY-Alert be inaccessible (down for maintenance. etc.)

or there are local internet outages?

Additional pop up information which details the exact information that should be reported in a NY-Alert entry field would be helpful for those that are unfamiliar with the NY-Alert system. In an ideal world, use of the system would be few and far between for most notifiers and hence previous training may be forgotten.

- Comment 2.16.12 It is NYWEA's opinion that new §750-2.7(b)(2)(ii)(b) requires modification to fully meet the Legislative intent of the SPRTK Act. As stated previously, NYWEA and other stakeholders were part of the process finalizing the SPRTK Act and a valid concern presented by several stakeholders pertained to meaningful notifications. The concept of "crying wolf" – i.e. the concern that the general public will ultimately ignore notifications over time because discharges that are of no impact to public health continue to be reported – was discussed at great length. With the use of the term "shall" in the SPRTK Act, the Legislature made a clear mandate that the department must develop rules that only notify the public when there is a threat to public health.
- Comment 2.16.13 For example: does a Sanitary Sewer Overflow that comes out of a privately owned lateral but was caused by a main line issue have to be reported?
- Comment 2.16.14 The need to report a volume – Originally we were told to the "extent knowable". Now the NY-Alert program will not close-submit without a volume. The fact that district staff has no way of knowing when the discharge started, reporting a volume is "irresponsible" and inaccurate. Back to Item #1- Cost, to have an accurate volume number RCSD would have to install flow measurement at 56 remote locations that have no electricity, no "Time Warner" and cell service.
- Comment 2.16.15 Identifying a public health issue - If the district's force main has a gaping hole in it and raw sewage is flowing to the Hudson, the public health issue is clear. If there is a 0.5 inch rain event we can assume no one is swimming during a rain event and risk to public health because of that would be minimal. Two days later district staff are performing routine inspections and find 3 three regulators discharging to the river, a) RCSD staff do not know when the discharge began
- Comment 2.16.16 In its guidance, the department should encourage Regulated Entities to report when discharges from observed CSOs are possible, but are unconfirmed (or cannot be confirmed).
- Comment 2.16.17 The guidance should follow the proposition that more information is better, and should not withhold information from the public that could reasonably be helpful to recreational decision-making simply because it is not 100% confirmed.

Response to comment 2.16:

The department is providing training for operators of POTWs and POSSs to accurately and consistently complete a sewage discharge report using NY-Alert. Training sessions have been held in the past, and more will be scheduled in the future.

The department has also provided outreach materials on the SPRTK website (<http://www.dec.ny.gov/chemical/90323.html>) including instructional videos.

NY-Alert includes an option to indicate a rate of discharge, instead of total volume. NY-Alert does not have an "unknown" option for volume.

Notifiers using NY-Alert to report sewage releases can see all templates and information for the facility or facilities for which they are authorized to provide notifications. Notifiers have the ability to create templates for their facility to streamline reporting. However, due to security measures in place by NY-Alert, each notifier must have their own separate account.

Under the current system, the general public is automatically notified of all surface water discharges two (2) hours after the initial report to the department and DOH.

NY-Alert is accessible through a variety of portable devices. If NY-Alert is not available to report a sewage discharge, such as during a power outage or loss of internet access, the report must be submitted once when availability of NY-Alert is restored.

In the absence of known data, best professional judgement is acceptable for required fields in NY-Alert.

Comment 2.17: "Notifying the Public of Discharges to Surface Water"

Comment 2.17.1 "The general public must also be notified of any such discharges to surface water within this same four hour time frame through appropriate electronic media as determined by the department." If the discharge does not reach surface waters does the queued notification go out after 4 hours? Clarification is needed.

Response to comment 2.17:

If a discharge does not reach surface water, the 4-hour report is not sent to the public via NY-Alert, but the department posts all reports received to its website (<http://www.dec.ny.gov/chemical/101187.html>). The 4-hour group includes adjoining and chief elected official. However, see response for comment number 2.13 for changes in notifying adjoining municipalities and the general public.

Comment 2.18: "SPRTEK and NY-Alert Outreach"

Comment 2.18.1 Please let me know when raw sewage overflows occur in my community and across New York State. Please put these regulations in place quickly before more people are unnecessarily exposed to sewage pollution; I have an ear infection today from swimming yesterday here in East Marion, NY.

Comment 2.18.2 Additionally, we recommend that the department develops an ongoing public awareness campaign to educate New Yorkers about NY-Alert and how to sign up.

Comment 2.18.3 Undertake aggressive public education about the NY-Alert system, simplify sign-ups for these alerts, and notify local media when a spill occurs.

Comment 2.18.4 Additional education to the elected officials is encouraged to gain buy in.

Comment 2.18.5 There should be more education provided to the public on NY-ALERT for a fair representation of the occurrence. We suggest consideration to social media sites.

Comment 2.18.6 NY-ALERT will help to prevent confusion for the general public because this same system will be used throughout the state to accomplish the required four hour public notification. It is still assumed the public in general, will access the NY-ALERT site for discharge updates. Most do not know of its existence. The media and others will (and already have) access to this information, we have seen some incomplete accounts of the incident(s) reported. How can this be controlled or avoided?

Comment 2.18.7 In addition, outreach needs to be intensified for POSSs since many are still unaware of the requirements of SPRTEK.

Comment 2.18.8 The proposed rule would extend direct regulatory oversight to this new group of entities. Clarification is needed regarding the POSS registrations. Will the department be actively reaching out to these 300 POSSs to obtain the required registrations?

- Comment 2.18.9 The department should consider partnering with NYRWA to assist in educating professional operators and elected officials on the SPRTK and NY-ALERT. NYRWA has had for the past ten + years a great partnership with the NYSDOH and it would be advantageous for the department to consider the same.
- Comment 2.18.10 It is still assumed the public in general, will access the NY-ALERT site for discharge updates. Most do not know of its existence. The media and others will (and already have) access to this information, we have seen some incomplete accounts of the incident(s) reported. How can this be controlled or avoided?
- Comment 2.18.11 There should be more education provided to the public on NY-ALERT for a fair representation of the occurrence. We suggest consideration to social media sites. In addition, after the overflow, we highly recommend that daily termination reports not be sent to the public to avoid misinterpretation that the hazard is no longer present. Another concern is related to meaningful notifications and the concern that the general public will ignore notifications over time because discharges that are of no impact to the public health continue to be reported. Has the department developed rules that only notify the public when there is a threat to public health? Need clarification.
- Comment 2.18.12 Additional outreach is needed for POSSs about the NY-Alert system. NY WEA and other organizations could be a resource to assist in promulgating information.
- Comment 2.18.13 I also believe that notification requirements could usefully be expanded to include both downstream communities that are not adjacent to the municipality reporting its discharge, and to news media. It's the nearest downstream communities that are also affected before the sewage is able to be sufficiently diluted to safe levels.
- Comment 2.18.14 The public must learn of these threats as rapidly and thoroughly as possible. Recreational users may believe that because there has been no alert, that a given waterbody is safe for recreation. Riverkeeper's own monitoring data, and that of our partners, from the Hudson River Estuary and its tributaries, suggests that some areas of the Hudson River Estuary, and many if not most of its tributaries, show evidence of fecal contamination that is likely to exceed Environmental Protection Agency Recreational Water Quality Criteria, despite there being few if any instances of publicly reported sewage discharges into these waters.
- Comment 2.18.15 To further the reach of NY-Alert, we urge the department to sign press and local media up for NY-Alerts on sewage overflows, soliciting local media outlets from POTWs and POSSs as part of the registration and outreach process. Local media already receive and broadcast alerts about poor air quality, weather, and traffic. Water quality alerts are a logical addition to this data suite, especially during warm weather when public contact with the water is guaranteed. Additionally, we recommend that the department develop a public awareness campaign to educate New Yorkers about the alerts. We recommend radio and print ads to reach the majority of the public which does not visit the department website but would be interested in this information. Save the Sound will also promote the NY-Alert notifications to residents of Long Island Sound shoreline and near-shoreline communities.

Response to comment 2.18:

The department wishes to thank all of those willing to help reach out to POTWs, POSSs, and the public about SPRTK.

The department continues to train wastewater treatment plant operators and collection system owners on how to properly report sewage releases using NY-Alert. Information is available on the department's website on how to sign up to receive NY-Alert reports. The department also continues to provide outreach through various governmental and non-governmental organizations.

The department has created web pages to inform the public about sewage discharges, why they occur, and how they can be avoided.

The department encourages anyone including the public, municipal officials, and media outlets interested in receiving alerts from NY-Alert to sign up. Instructions are available on the department's website for the public to sign up with NY-Alert. The department will continue to use department resources to publicize the availability of NY-Alert for notification of sewage discharges.

For additional information, please see responses to comments 2.13, 2.16, 3.3.

Comment 2.19: "Unique Comment"

Comment 2.19 In the absence of a regulatory determination, it is unclear how the regulated community will be informed of the department's determination. The Regulatory Impact Statement (RIS) indicates "the department has selected the NY-ALERT system maintained by the State Office of Emergency Management (SOEM) to implement the reporting and notification requirements of the proposed rule." This selection is not reflected in the text of the regulation. The RIS "costs" section indicates "Some municipalities that have POTWs or POSSs (or their contractors) may need to upgrade their computer systems to comply with the two hour reporting and four hour notification provisions of the proposed rule. The cost to a municipality (or its contractor) to upgrade its computer system to comply with the rule would be single expenditure of approximately \$1,000. It is estimated that 140 municipalities (or their contractors) would need to incur this expense." The absence of regulatory certainty regarding the department's notification determination means that this investment could be useless should the department change its mind without any consultation or notification. The possibility of an alternative system selection is identified in the RIS "Alternatives" section where it is indicated "If the department switches from NY-ALERT to another electronic system in the future for any reason ..." Perhaps more importantly, even if NY-ALERT is selected it is unclear that it provides the best method for notifying the public. NY-ALERT isn't highly visible, the sign-up process is cumbersome, and the environmental information is not apparent.

Response to comment 2.19:

Please see responses to comments 2.11 through 2.18.

Comment 2.20: "Implementation Costs"

Comment 2.20.1 In the Regulatory Impact Statement 6 NYCRR Parts 750 and 621 SPRTK #4 includes the statement "the department anticipates that each POTW and POSS will have, on average, two (2) reportable events per year with a de minimis cost for reporting and record keeping." It further states "Labor costs will also be higher if the facility experiences a significantly higher number of reportable events. These potential increases in labor costs, however are not expected to occur." According to the BSA's approved LTCP, the baseline number of wet weather activations of CSOs in the typical year is 853. Assuming that half of these discharges abridge to separate calendar dates (i.e. occur over a period inclusive of 11:59 PM of date 1 and 12:01 AM of date 2), this would mean 1280 two hour

reports would be expected under baseline conditions. An additional 853 Termination Reports and Five (5) Day Reports would also be expected under these proposed regulations. Assuming the two hour reports take thirty (30) minutes each to perform, each Termination Report takes fifteen (15) minutes to perform and each Five (5) Day Report takes sixty (60) minutes, a total exceeding 1700 man-hours will be required to comply with this regulation, accounting for lunches and breaks under current Union agreements, this would equate to over 260 working days of reporting each year. In the case of the BSA, the cost for reporting and record keeping cannot be considered "de minimis" as a significantly greater number of reportable events with corresponding elevated labor costs is expected to occur.

- Comment 2.20.2 SPRTK only mandates use of the alert system selected by the department to satisfy the four hour notification requirement. Labor costs will be higher if the facility uses its own method to satisfy the two hour reporting requirement or the four hour municipal notification.
- Comment 2.20.3 If the department switches from NY-ALERT to another electronic system in the future for any reason, it will seek a system that can achieve benefits similar to those of the NY-ALERT system. Will there be any financial relief for those facilities that spent millions of dollars developing their own notification systems (NYC, Onondaga County, etc.)?
- Comment 2.20.4 The two hour window is too short. Operators need to focus on fixing the problem. There is an added expense to the municipality.
- Comment 2.20.5 The cost impact estimates for local municipalities appears to be low, particularly for CSO operators.
- Comment 2.20.6 Cost – We have been told from the beginning that this is a low/no cost program. RCSD's SPDES permit requires weekly inspection 56 Flow Regulating Chambers. Cost is two full time employees and a vehicle. Reporting SPRTK for dry weather overflows when the regulator is plugged.

Response to comment 2.20:

The Department's assessment of economic impact was based on average treatment plant operator hourly wage and estimate of time for SSO events. The department acknowledges costs will vary depending on municipality and circumstances regarding each sewage release event. The department has sought to minimize costs by implementing the NY-Alert reporting system, which is available for POTWs and POSSs to use free of charge. The rule making documents have been revised to indicate accurate costs for POTWs and POSSs to comply with the rule.

3. Draft Regulations and Process

Comment 3.1: “Notifying the Public of Surface Water Discharges”

Comment 3.1.1 Another concern is related to meaningful notifications and the concern that the general public will ignore notifications over time because discharges that are of no impact to the public health continue to be reported. Has the department developed rules that only notify the public when there is a threat to the public health? Clarification is needed.

Response to 3.1:

The department consulted with NYSDOH to determine how to implement SPRTK (17-0826-a.4.) regarding providing “...only for public notification of discharges that may present a threat to public health considering the potential for exposure and other factors.” It was determined that the four hour notification to the general public should apply to untreated and partially treated sewage discharges to surface waters of the State, irrespective of volume. The department/NYSDOH also determined that this was the most consistent, concise way to report and provided the most public protection.

Comment 3.2: “Requiring All Discharges to Be Reported”

Comment 3.2.1 Require that all spills are reported, no exemptions

Comment 3.2.2 Also troubling is that the regulation would limit the types of discharges subject to the reporting requirements. As the RIS indicates, "Untreated and partially treated sewage contains pathogens. The most common pathogens in sewage are bacteria, parasites and viruses, all of which can cause a variety of acute illnesses such as diarrhea and infections." In an ideal world, combined sewer overflows, wet weather events and other discharges would not happen; however, they do occur, and the public deserves to be informed fully about any potential risks that may be associated with their recreational activities. I urge the department to include the greatest possible number of discharges in the regulation.

Response to comment 3.2:

Reporting of discharges of untreated or partially treated sewage required by SPRTK, are required to be reported in accordance with updated Part 750 regulations.

Comment 3.3: “Daily & Termination Reports”

Comment 3.3.1 Like NYWEA, the ECDSM is unsure why the daily/termination reports are included in the regulations as only initial notifications were required by State Legislature pursuant to the SPRTK Act. As a reinforcement of NYWEA’s comments on this proposed requirement, the ECDSM presents the following: The department already received “termination” information through the existing Part 750-2.7(d) (5-day written report requirement). It is unclear why 5-day reports are necessary if termination reports will also be mandatory.

Comment 3.3.2 6 NYCRR 750-2.7(d) Five-day written incident report: The proposed rule states: The department may waive the written report on a case by case basis if the reports have been received with-in the time periods required under subdivisions (b) and (c) of this section. Five-day written incident reports should not be required for a permitted Wet Weather Combined Sewer Discharge if the discharge was properly reported following 6 NYCRR 750-2.7. Additional language should be added to this

section of the proposed rule waiving the requirement to submit a Five-day written incident report.

- Comment 3.3.3 We highly recommend that daily termination reports not be sent to the public to avoid misrepresentation that the hazard is no longer present.
- Comment 3.3.4 If the final rule includes daily and termination reports, 7502.7(b)(2)(i)(d) should be revised to provide an explicit exception for wet weather CSO discharges, consistent with Paragraph I.D of the Act. This language also again conflates the distinct respective requirements for CSOs and bypasses. CSOs are not "bypasses" and they are separately regulated applicable permit conditions.
- Comment 3.3.5 Providing real-time daily and termination reports is not feasible for the majority of CSO systems. Existing discharges other than CSOs are to be documented in five-day written incident reports. The termination reports proposed are duplicative and place unnecessary burden on the operators.
- Comment 3.3.6 New §750-2.7(b)(2)(i), §750-2.7(b)(2)(ii)(a), and §750-2.7(b)(2)(ii)(b) introduce the concept of daily and termination reports for discharges reported pursuant to the SPRTK Act. NYWEA notes that no such concept was specifically mentioned in the bill and hence there is no Legislative directive placed on the department to implement these reports as such. It is NYWEA's recommendation that the daily and termination report requirements be eliminated for the following reasons:
- Daily and termination reports for combined sewer overflow (CSO) systems operating pursuant to a long-term control plan will not be accurate.....Providing real-time daily and termination reports is not feasible for the vast majority of CSO systems."
 - Pursuant to existing §750-2.7(d), discharges other than CSOs are to be documented in five-day written incident reports. The termination reports proposed in new §750-2.7(b)(2) are duplicative, and place an unnecessary administrative burden on operators.
 - The termination reports required in new §750-2.7(b)(2)(ii)(a) and §750-2.7(b)(2)(ii)(b) may lead to public misperception.... When termination reports are issued for items such as traffic and extreme weather through NY-Alert, said termination reports indicate that the hazard is no longer present (i.e. for traffic alerts, the road is clear). The same cannot necessarily be said for sewer discharges, but issuing a termination report may unintentionally give that impression to the public.
 - There are other means for the department and health departments to obtain this information. It appears a major driver for the department suggesting that daily / termination reports are needed is that there have been a limited number of instances where the department was not provided timely updates for multi-day sewer discharges. Many municipalities and local offices of the department / health departments have existing protocols of communication that are much more effective.
- Comment 3.3.7 In New York City, wet weather CSO events are determined using modeled rainfall amounts and intensity, which are not dispositive of whether a CSO event has either started or terminated at any specific location. Thus, CSO daily and termination reports may have no relevance to the public health or safety or whether water quality is impacted at any particular location. Those reports could confuse the public. For this reason, and because CSO daily and termination reports are not required by the Act, these reporting requirements for CSO events should be eliminated from the proposed rule.

Response to comment 3.3:

The final regulations have been modified to clarify that the department is not requiring daily or termination update reports for wet weather CSO discharges. In addition, the department does not require five day written reports for wet weather CSO events in accordance with an approved plan or permit.

In keeping with the intent of the law, daily and termination reports are being required to keep the public informed of the status of untreated and partially treated sewage discharges. A written report still needs to be sent to the department within five days of discovery of the event, unless waived by the department. This report will include more accurate information than can be provided on NY-Alert, such as corrective actions or volume. Because a NY-Alert report is not a legally certified report, and the five day written report has a certification statement, it is required to be submitted. The five-day written report may be waived by the department on a case by case basis.

Comment 3.4: "Clarification for Daily & Termination Reports"

Comment 3.4.1 If daily / termination reports are to remain, there are a number of items that require clarification:

- At what point should daily reports be transmitted?
- At what point should termination reports be transmitted?

Comment 3.4.2 Flexibility should be provided regarding the timing of daily or termination reports, acknowledging staffing constraints. NYWEA's comments relative to "midnight not being the required time" and "cleaning up and demobilization from an overflow event should be the focus" are particularly important.

Response to comment 3.4:

Daily updates and termination reports can be made during normal business hours. The rule has been revised and now provides that daily and termination reports must be made within 24 hours of the initial or subsequent daily report. The termination report may be made in lieu of the final daily update report. The department will provide additional guidance and training in regard to daily and termination reporting. Also see response to comment 1.1.7.

Comment 3.5: "Requiring Daily Reports"

Comment 3.5.1 If termination reports are required, why are daily reports also mandated?

Response to comment 3.5:

This is a notification law, and ongoing discharges still need to be submitted daily to keep the department, health authorities, and the general public informed of the status of a discharge until it terminates. The termination report may be made in lieu of the final daily update report.

Comment 3.6: "Daily & Termination Reports Are Repetitive"

Comment 3.6.1 The way new §750-2.7(b)(2)(i), §750-2.7(b)(2)(ii)(a), and §750-2.7(b)(2)(ii)(b) are written, daily / termination reports will detail over and over again the date / time of discovery, the reason for the discharge, etc. This is repetitive and not meaningful after an initial notification has already been issued.

Response to comment 3.6:

The information doesn't have to be entered for every report- the reports can be updated. NY-Alert has tools for notifiers to easily create daily updates and termination reports. This information is necessary to help the public make informed decisions about where they recreate. In addition, the final rule states that "subsequent to the initial report, DEC may modify or waive reporting requirements on a case by case basis if acceptable alternate reporting methods are available."

Comment 3.7: "Purpose of Termination Reports"

- Comment 3.7.1 If termination reports are to remain, will this substitute for 5-day written reports in existing §750-2.7(d)?
- Comment 3.7.2 The public may misperceive termination reports. Most of the public currently uses NY-Alert for weather and traffic alerts and when a termination notification is provided, that means that the potential hazard or condition is over. That is not necessarily the case with a discharge notification.

Response to comment 3.7:

Termination reports are not intended to replace or be equivalent to 5-day reports and do not have the legal certification. In addition, current regulations allow DEC to waive the five day report. The five day report is an opportunity to provide additional information or clarify reporting and information reported as a public notification. Under certain circumstances, DEC may consider the termination report to be sufficient for regulatory purposes. See response 2.15.

Comment 3.8: "Daily & Termination Reports in the Regulatory Impact Statement"

- Comment 3.8.1 In the Regulatory Impact Statement for proposed changes to 6 NYCRR Parts 750 and 621, the 'Legislative Objective' section notes that POTWs and POSSs will "continue reporting the discharge for each day after the initial report is made until the discharge terminates" (i.e. daily and/or termination reports). This does not appear to be an appropriate 'Legislative Objective' as there is no mention of daily / termination reports in the SPRTK Act.

Response to comment 3.8:

The primary Legislative Objective of the SPRTK is to provide notification to the public of sewage releases. The daily and termination reports serve to notify the public of on-going discharges over more than one day and inform them when the discharge ends.

Comment 3.9: "Public Health Determinations"

- Comment 3.9.1 ...to the general public when, based on actual rainfall data [and] or predictive models, enough rain has fallen that combined sewer overflows may reach waters of the State [are likely of enough volume to cause potential health concerns for people who may come in contact with the water].
- Comment 3.9.2 The intent to limit notifications to those that present a threat to public health was memorialized in the SPRTK Act by the State Legislature. The regulations should reflect this requirement.
- Comment 3.9.3 Please ensure all possible discharges are reported if they have the capacity to reach waters of the State - which could lead to a dangerous public health situation.
- Comment 3.9.4 In several places, the rule should be revised to conform to the explicit language and intent of the SPRTK Act. Importantly, the new reporting requirements should apply only to releases of sewage reaching waters of the State.
- Comment 3.9.5 There are concerns for many CSO communities with respect to new §750-2.7(b)(2)(iii). Specifically, many POTW and POSS operators are not qualified to determine whether a CSO may cause potential health concerns.
- Comment 3.9.6 Identifying a public health issue - If the district's force main has a gaping hole in it and raw sewage is flowing to the Hudson, the public health issue is clear. RCSD staff are not qualified public health official to determine the risk.
- Comment 3.9.7 Please ensure that all possible discharges are reported if they may reach waters of the State and which therefore may endanger public health.

Comment 3.9.8 In our judgment, the current regulations are not sufficient to do so..... The regulations should require Regulated Entities to report whenever CSOs may reach state waters, consistent with requirements for other discharges in the regulations....

Response to comment 3.9:

In consultation with NYSDOH, it was determined that a release or likely release to a surface water may constitute a threat to public health and by this regulation require reporting to the public. In order to make the regulations most effective, and to not place burden on wastewater treatment plant operators or other NY-Alert notifiers to determine a threat to public health, 750 2.7(2)(b) has been modified to require discharges that may reach the waters of the state to be reported to the public. DOH will make determinations on health concerns for discharges reaching waters of the state.

Comment 3.10: "Time Frame to Report a Sewage Discharge"

Comment 3.10.1 Mandate immediate reporting after discovery of a discharge so the public is aware as soon as the danger is known.

Comment 3.10.2 Consideration to extend the time to allow for the necessary corrective action would be best or again, using the 24 hour emergency call center or elected officials so that the operator can concentrate on fixing the problem.

Response to comment 3.10:

Part 750-2.7 has been revised to be consistent with the SPRTK (17-0826 a.1.) statutory language to require: "POTWs or the operator of a POSS shall immediately, but in no case later than two hours after discovery, report discharges of untreated and partially treated sewage...to DEC and the local health department..."

Comment 3.11: "Authorized Notifiers for NY-Alert"

Comment 3.11.1 As the ECDSM's use of NY-Alert is relatively new, the County is unsure of how issuance of daily or termination notifications would work. Does the system require the same person that issued the initial notification to also issue the daily and/or termination reports? If yes, that could be problematic as the initial notifier may not be working at the time in which a daily or termination report is needed.

Comment 3.11.2 A list of reporting people (elected officials) would be better to handle the email, allowing operators to take corrective action.

Comment 3.11.3 "The proposed rule accords with this public policy objective by providing that owners and operators of POTWs and POSSs must notify the chief elected official of the municipality where the discharge occurred." This statement implies that the operator is solely responsible for the discharge. The chief elected official SHOULD also be required to be a notifier and SHOULD be advised of the discharge within the same 2 hour window as DEC and DOH.

Response to comment 3.11:

Notifiers are authorized by the chief elected official (CEO). Anyone authorized by the CEO can be a notifier, including the CEO. For many municipalities, elected officials are authorized notifiers. Any authorized notifier for the facility may submit the update or follow up reports, not just the initial notifier.

Comment 3.12: "Emergency Response Plans for Municipalities"

Comment 3.12.1 An overflow should activate the municipalities' emergency response plan and the chief elected official take over all notifications and dealings with the press. This is the best way to ensure they are aware of what and why the overflow happened

Response to comment 3.12:

Establishing emergency response plans and activation procedures are developed and implemented by the municipality. The SPRTK law does not require activation of emergency response measures. Activation of these measures is at the discretion of the municipality.

Comment 3.13: “Modification of Two-Hour Reporting Language”

- Comment 3.13.1 Language in the regulations should mirror language in the statute Section 1 of § 17-0826-a states: “Publicly owned treatment works or the operator of a publicly owned sewer system shall immediately, but in no case later than two hours after discovery, report discharges of untreated or partially treated sewage...” However, the proposed language for part 750-2.7 (b) (2) (i) simply states “within two hours of discovery” owners and operators of POTWs must report. We suggest that the same language from the statute quoted above should be used in this section of the regulations. The term “immediately” is crucial to ensure that there is reporting as soon as an overflow has been discovered, thus minimizing the risk of potential exposure.
- Comment 3.13.2 However, the proposed language for part 750-2.7 (b) (2) (i) simply states “within two hours of discovery” owners and operators of POTWs must report. We strongly suggest that the same language from the statute quoted above be used in this section of the regulations. The term “immediately” is crucial to ensure that there is reporting as soon as an overflow has been discovered, thus minimizing the risk of potential exposure.
- Comment 3.13.3 The statute indicates "Publicly owned treatment works or a publicly owned sewer system shall immediately, but in no case later than two hours after discovery, report discharges of untreated or partially treated sewage ... " The need for expeditious reporting is omitted from the regulations which instead simply state "Within two hours of discovery ... " The regulations should be modified to include language similar, or identical to language in the statute.
- Comment 3.13.4 Finally, part 750-2.7 (b) (2) (i), which states that owners and operators of publicly owned treatment works and sewer systems must report sewage discharge events “within two hours of discovery,” does not comply with SPRTK. SPRTK specifically requires that “publicly owned treatment works or the operator of a publicly owned sewer system shall immediately, but in no case later than two hours after discovery, report discharges.” The Department’s rules must be brought into compliance with the law to ensure reporting occurs as soon as possible after discovery of an overflow.

Response to comment 3.13:

DEC has revised the regulations to be consistent with the text of the law. The final rule states that two hour reporting must be done “immediately, but no later than two hours after discovery...” of a discharge of untreated or partially treated sewage. Also see response to comment 3.10.

Comment 3.14: “Modification of Four-Hour Reporting Language”

- Comment 3.14.1 Similarly, we recommend that for part 750-2.7 (b) (ii) that the language from the statute is adopted so it will read “as soon as possible, but no later than four hours from discovery of the discharge...” instead of the current proposed language that states “within four hours of discovery...”
- Comment 3.14.2 Restore the statutory language requiring reporting "as soon as possible" but no later than four hours from the discovery of the discharge.

Comment 3.14.3 DEC should revise § 750-2.7 (2)(ii)(b) as follows: [As soon as possible and within] Within four hours of discovery, owners and operators of POTWs and POSSs must notify the general public of untreated or partially treated sewage discharges, including combined sewer overflows, to waters of the State except underground waters through appropriate electronic media as determined by the department....

Response to comment 3.14:

DEC is updating the regulations to be consistent with the law. The regulations will state that four hour reporting must be done “as soon as possible but no later than four hours from the discovery of the discharge.”

Comment 3.15: “New Part 750 2.8: POSS Operational Requirements”

Comment 3.15.1 Portions of several Erie County Sewer Districts would be defined as a POSS pursuant to this rulemaking. These systems are administered by ECDSM and are subject to the same internal requirements as the County owned collection systems tributary to ECDSM POTWs....The County believes that it “properly operates and maintains the POSS” (as required in new Part 750-1.22(c) and keeps sufficient records such that “documents relating to operation and maintenance of the POSS” are preserved (as required in new Part 750-1.22(g); however, as NYWEA notes new Part 750-1.22(c) and Part 750-1.22(g) are open to wide interpretation.

Comment 3.15.2 Even an item such as “written procedures for...training new operators” under Part 750-1.22(c) presents uncertainties. The traditional definition of an “operator” is one that which is certified; however, a number of POSSs are maintained by collection system personnel that are well qualified for the job but do not have New York State wastewater operator certification. These are just a few examples. The ECDSM supports NYWEA’s suggestion that Part 750-1.22(c) and Part 750-1.22(g) be deleted in their entirety or at a minimum be edited to address these and other concerns. There are likely other ways in which the department can meet its goals without exposing the POSSs to unintended problems.

Comment 3.15.3 We commend the department for including SPDES registration, and operations and maintenance requirements for POSSs in the regulations. We believe these requirements will help with SPRTK compliance and encourage POSS operators to prevent any maintenance or operation failures that lead to discharges. We urge the department to make the same operations and maintenance requirements of the collection systems included in the POTW category of operators as well.

Comment 3.15.4 It is speculated that the department’s intent with this portion of the rulemaking is to ensure POSSs perform maintenance on their systems and keep documentation stating as such, while not promulgating “one size fits all” requirements. While those are goals that ECDSM supports, as unintended consequence is that those types of terms in the proposed regulations open POSSs to potential liabilities. One person’s definition of “properly operate and maintain” will differ from another.

Response to comment 3.15:

Part 750-2.8 refers to the proper oversight of disposal system operation and has always applied to all collection systems. POSSs are expected to use industry standards for proper operation and maintenance. Also see response to comment number 2.6.1 and 3.22.

Comment 3.16: “Revision of New Part 750 2.7(b): Notification to the General Public”

Comment 3.16.1 Perhaps the threshold in existing §750-2.7(b) should be the criteria in which public notification is required? Regardless, NYWEA suggests that the department reevaluate new §750-2.7(b)(2)(ii)(b) to ensure that the Legislative intent is satisfied. NYWEA would be happy to work with the department to meet the Legislative directive.

Response to comment 3.16:

DEC consulted with the Department of Health and it was determined that the four hour notification to the general public should apply to untreated and partially treated sewage discharges to surface water of the State, irrespective of volume.

Comment 3.17: “Non-POTW Reporting Requirements”

Comment 3.17.1 The proposed rule would also extend the new two hour reporting obligation to owners and operators of POSSs which are not currently subject to two hour reporting and require that reporting by owners and operators of POTWs and POSSs continue for each day after the initial report is made until the discharge terminates. Are commercial businesses and industrial facilities now exempt from reporting a discharge?

Response to comment 3.17:

The modified Part 750 regulations apply to POTWs and POSSs. Industrial and commercial facilities still have to report discharges under previous Part 750 conditions. The rule does not change reporting requirements for these facilities.

Comment 3.18: “Combined Sewer Outfall Signage Requirements”

Comment 3.18.1 Subdivisions (b), (c), and (d) of Section 750-2.7:
(b) Reporting and notification requirements for untreated and partially treated sewage discharges.
(2) Requirements for POTWs and POSSs
AFTER (iii) Additional notification requirements...”... Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points.”
ADD A NEW SUBSECTION (iv)
Additional detection, monitoring and public notice requirements. By December 31, 2019, owners and operators of POTWs and POSSs shall install real-time telemetered discharge monitoring and detection at all combined sewer system outfall locations and at any other point source discharge location from a combined sewer system or sanitary sewer system. Such monitoring and detection shall also include a real time digital signage notice at the point of or within ten (10) feet (3.05 meters) of any detected discharge that is of sufficient size and illumination as to be visible by any user of the waterbody to which the detected discharge is being made from a distance of at least twenty-five (25) feet (7.62 meters) within reasonable limits attributable to weather (e.g. fog) and other uncontrollable conditions. Recognizing that the general public may not comply with existing wet weather discharge point signage advising waterbody contact avoidance or have access to appropriate electronic media notices while in contact with the waterbody, and in the interest of public health and safety, this real time monitoring and detection linked with a real time digital signage public notice shall be provided whether or not the waterbody to which the detected discharge is made is characterized as suitable for swimming, boating, fishing, shellfishing or other recreational uses and shall be in addition to the notices

required under (iii) above. The Commissioner shall determine the minimally required text and format of the real-time digital signage notice which shall include the words: CAUTION; ACTIVE DISCHARGE; and POTENTIAL HEALTH HAZARD.

Response to comment 3.18:

DEC currently requires signs at all CSO outfalls in accordance with part 750-1.12 and through the CSO best management practices reporting specified in the individual SPDES permit for POTWs and POSSs that own and operate CSOs.

The SPRTK law does not mandate installation of monitoring equipment. Also see response to comment 1.5.

Comment 3.19: “Approved Bypasses from POTWs”

Comment 3.19.1 Notification should be required for all discharges of raw or partially treated sewage, including permitted bypasses from treatment works, and all combined sewer overflows (CSOs). ...

Comment 3.19.2 I believe the public should be notified of all discharges of raw or partially treated sewage, including approved bypasses from plants.

Response to comment 3.19:

Approved bypasses of partially treated sewage directly from POTWs are exempt from reporting under SPRTK. However, NY-Alert may be used to report such discharges at the discretion of the POTW. Also see response to comment 1.1.

Comment 3.20: “Reporting Sewage Discharges to Surface Water”

Comment 3.20.1 The City recommends that the regulations limit the notification requirements to only those cases where the discharge presents a legitimate threat to public health, and that it enumerate explicit criteria for making that determination that could reasonably be applied to identify those discharges that actually present a threat to public health. The final rule also should explicitly exclude from the notification requirements sewage releases that do not and cannot reach the waters of the State. The text of the SPRTK Act applies only to “discharges” of sewage. A “discharge” is defined at 6 NYCRR §750-1.2(a) (26) as “any addition of any pollutant to waters of the State through an outlet or point source.” Thus, the department’s authority to regulate under the SPRTK Act is limited to “discharges”.....The proposed reporting requirements can apply only to “discharges.” Thus, a sewage spill contained wholly within a POTW, for example, would not meet the definition of a “discharge” and should not be subject to the proposed reporting requirements, especially inasmuch as such a spill presents no threat to the public health.....the department lacks the authority under the SPRTK Act and the ECL to regulate releases of sewage that do not reach the waters of the State.

Response to comment 3.20:

For purposes of advising the general public no later than four hours after discovery, DEC consulted with DOH. ECL 17-0826-a (4) requires notification to the general public of discharges that “may present a threat to public health.” In accordance with the recommendation of DOH, the rule requires public notification for any discharge of untreated or partially treated sewage to surface water, irrespective of volume, within four hours of discovery. Furthermore, the rule requires POTWs and

POSSs to expeditiously issue CSO advisories based upon actual rainfall data or predictive models in situations where there is no monitoring equipment to detect CSOs when they may occur.

Comment 3.21: "Report All Spills to DEC"

Comment 3.21.1 Thank you for paying attention to this ongoing problem and for issuing useful rules. But please strengthen them to require that ALL spills be reported to you – no exceptions – and include expeditious notification to local media and alert "downstream" areas of the occurrence.

Response to comment 3.21:

SPRTEK applies to discharges of sewage. Please see responses to comments 2.13 and 3.2.

Comment 3.22: "POSS Operation and Maintenance Language"

Comment 3.22.1 Several requirements outlined in new §750-1.22(c) appear to be misplaced in this section. Again, §750-1 pertains to "Obtaining a SPDES Permit" but §750-1 makes no mention of minimum operation / maintenance or training requirements for publically owned treatment works (POTWs). Furthermore, that which is described in §750-1.22(c) and §750-1.22(g) is open to wide interpretation. NYWEA suggests that §750-1.22(c) and §750-1.22(g) be deleted in their entirety or at a minimum be edited such that POSSs are not potentially subject to unnecessary regulatory enforcement based upon interpretation of inexplicit terms. No such requirements were specifically outlined in the SPRTEK Act and hence there is no legal mandate that the department implement §750-1.22(c) and §750-1.22(g) as presently written.

Response to comment 3.22:

Headings in the regulatory language have been revised to reflect changes. Requirements for operation of POSSs will be moved to their appropriate locations in Section 750 2.8. In addition, POSSs are not required to have a certified wastewater treatment plant operator as defined under Part 650.

Comment 3.23: "Changes to CSO Reporting Requirements"

Comment 3.23.1 There was never a requirement that CSOs be documented in a 5-day written report as CSOs are permitted.

Comment 3.23.2 CCE urges the department to adopt the following changes for non-telemetered CSO notification, "Additional notification requirements for discharges from combined sewer overflows. For combined sewer overflows for which real-time telemetered discharge monitoring and detection does not exist, owners and operators of POTWs and POSSs shall make reasonable efforts to expeditiously issue advisories through appropriate electronic media to the general public when, based on actual rainfall data and/or predictive models, enough rain has fallen that combined sewer overflows may reach state waters are likely of enough volume to cause potential health concerns for people who may come in contact with the water. Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points."

Comment 3.23.3 - Environmental Advocates recommends the following changes to part 750-2.7 (b) (2) iii:
(iii) Additional notification requirements for discharges from combined sewer overflows. For combined sewer overflows for which real-time telemetered discharge monitoring and detection does not exist, owners and operators of POTWs and POSSs must [shall make reasonable efforts to] expeditiously

issue advisories through appropriate electronic media as determined by the department to the general public when, based on actual rainfall data [and] or predictive models, enough rain has fallen that combined sewer overflows may reach waters of the State [are likely of enough volume to cause potential health concerns for people who may come in contact with the water]. Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points.

- Comment 3.23.4 The proposed regulations also do not comport with the explicit statutory exemption for wet weather CSO discharges from the requirement that a municipality describe the steps it is taking to contain a discharge. Section 750-2.7(b)(2)(i)(d) of the proposed regulations requires a "brief description of the measures taken and planned to contain the discharge" in the discharge report. However, the text of the SPRTK Act expressly exempts wet weather CSOs from this requirement. See ECL 17-0826-a(1)(d) (requiring two-hour reports to include "a brief description of the steps being taken to contain the discharge except for wet weather combined sewer overflow discharges") (emphasis added).
- Comment 3.23.5 Paragraph 1.D of the SPRTK Act specifically states "a brief description of the steps being taken to contain the discharge except for wet weather combined sewer overflow discharges" (emphasis added). NYWEA recommends that new §750-2.7(b)(2)(i)(d) be revised to reflect the language the New York State Legislature intended and add the phrase "except for wet weather combined sewer overflow discharges".
- Comment 3.23.6 The regulations should, to the maximum extent possible, protect the public right to know about sewage discharges from CSOs in these communities. To accomplish these important reporting goals, the department should revise § 750-2.7 (2) (iii) as follows:
Additional notification requirements for discharges from combined sewer overflows. For combined sewer overflows for which real-time telemetered discharge monitoring and detection does not exist, owners and operators of POTWs and POSSs [must] shall make reasonable efforts to expeditiously issue advisories through appropriate electronic media [the same methods proscribed elsewhere in the regulations] to the general public when, based on actual rainfall data and [or] predictive models, enough rain has fallen that combined sewer overflows [may reach State waters and may] are likely of enough volume to cause potential health concerns for people who may come in contact with the water.
- Comment 3.23.7 Save the Sound recommends the following changes to part 750-2.7 (b) (2) iii: (iii) Additional notification requirements for discharges from combined sewer overflows. For combined sewer overflows for which real-time telemetered discharge monitoring and detection does not exist, owners and operators of POTWs and POSSs must [shall make reasonable efforts to] expeditiously issue advisories through appropriate electronic media as determined by the department to the general public when, based on actual rainfall data [and] or predictive models, enough rain has fallen that combined sewer overflows may reach waters of the State [are likely of enough volume to cause potential health concerns for people who may come in contact with the water]. Advisories may be done on a waterbody basis rather than by individual combined sewer overflow points.

Comment 3.23.8 6 NYCRR 750-2.7(d) Five-day written incident report: The proposed rule states: The department may waive the written report on a case by case basis if the reports have been received with-in the time periods required under subdivisions (b) and (c) of this section.
Five-day written incident reports should not be required for a permitted Wet Weather Combined Sewer Discharge if the discharge was properly reported following 6 NYCRR 750-2.7. Additional language should be added to this section of the proposed rule waiving the requirement to submit a Five-day written incident report.

Response to comment 3.23:

Paragraph 2.7(b)(2)(iii) has been revised to clarify CSO reporting requirements.

To be consistent with the SPRTK statutory language (17-0826-a.1.(d))(Part 750 2.7(d) 5 day incident reporting is amended to include the following: “5 day incident reports shall not be required for wet weather combined sewer overflows that are in compliance with a department approved plan or permit.”

To be consistent with the SPRTK statutory language (17-0826-a.1.(d))(Parts 750 2.7(b)(2)(i)(d) has been amended to include the following: “a brief description of the measures taken and planned to contain the discharge except for wet weather combined sewer overflow discharges;”.

Comment 3.24: “Legislative Intent to Notify Adjoining Municipalities that May Be Affected”

Comment 3.24.1 Additionally, the Regulatory Impact Statement for proposed changes to 6 NYCRR Parts 750 and 621 does not include the “that may be affected” language and hence does not appear to fully articulate the ‘Legislative Objective’.

Response to comment 3.24:

The department is requiring the notification of discharges of untreated and partially treated sewage via NY-ALERT. Since NY-ALERT is available to free of charge to “..any adjoining municipality that may be affected...” the department has determined that if the POTW or POSS properly reports via NY-ALERT that the legislative intent to notify “adjoining municipalities” has been met. In addition, the Regulatory Impact Statement has been revised to include “may be affected” language.

Comment 3.25: “Extension of Comment Period”

Comment 3.25.1 I am asking for an extension of public comment time. First, we need a local public hearing on the SPRTK law. We then need some time to read the regulations and the law and to make meaningful comments.

Comment 3.25.2 There was no press release about this SPRTK Act or invitation to comment on regulations and the local newspaper did not print invitation to attend any public hearings and they were not offered locally near the Southern Tier.

Comment 3.25.3 The Sewage Pollution Right to Know Act regulations proposed in the June 17th Register, and a minimum 45-day comment period runs through Saturday, August 1st. With the addition of the extra time required by §25-a, the department must accept comments through the close of business on Monday, August 3rd.

Response to comment 3.25.1 & 3.25.2:

The department has complied with the public notice requirements of proposing new regulations. In addition, the department conducted five public meetings during the notice to answer questions to help the public comment on the regulations.

Response to comment 3.25.3:

The department accepted comments up to the close of business on August 3, 2015.

4. Clarification of Definitions

The following comments requested clarification on definitions included in draft regulations.

Comment 4.1: "Definition of Partially Treated Sewage"

- Comment 4.1.1 CCE would like clarity/changes to the definition of "partially treated sewage." The proposed definition is "Partially treated sewage means a bypass of sewage that occurs after the sewage enters the treatment plant of a sewage treatment works." CCE is concerned that 'bypass' would limit the scope of discharges that are required to be reported. CCE would like clarity on how sewer systems that are owned by the POTW are treated and defined within the context of SPRTK.
- Comment 4.1.2 In 750-1.2(a) paragraph 63 Partially treated sewage is defined as "a bypass of sewage that occurs after the sewage enters the treatment plant of a sewage treatment works." the department should expand this draft definition to include other incidents that can result in the discharge of partially treated sewage, including but not limited to the emergency chlorination of a pipe rupture, as occurred in July 2013 in Kingston, NY, or discharges of partially treated sewage from publically owned treatment works other than bypasses, including but not limited to those caused by upsets and incidents.
- Comment 4.1.3 Finally, the definition for "partially treated sewage" raises the concern that any type of treatment that is applied to a discharge, such as chlorination, in the collection system, before "the sewage enters the treatment plant of a sewage treatment works" would render that discharge not covered by SPRTK. Some communities may consider chlorination at the point of discharge a form of partial treatment, making that discharge something other than raw sewage. Please review this definition with that in mind to ensure that it has not introduced an unintended loophole.

Response to comment 4.1:

The definition of partially treated sewage in new part 750 reads: "(63) means sewage that is diverted around any portion of the treatment plant of a sewage treatment works after it enters the treatment plant."

Comment 4.2: "Definition of Discharge"

- Comment 4.2.1 The ECDSM agrees that additional clarification is required regarding the definition of a "discharge".
- Comment 4.2.2 The proposed rule accords with the public policy objectives that the Legislature sought to advance by enacting SPRTK. One of the objectives of SPRTK is to protect the public health and the environment by requiring that POTWs and operators of POSSs promptly.....so that agencies may respond timely and appropriately." Define "respond timely and appropriately". Does this mean issuing additional advisories and warnings? Clarification is needed. The proposed rule would implement this objective by obligating owners and operators of POTWs and POSSs to report untreated and partially treated sewage discharges to the department and health authorities within two hours of discovery regardless of the location of the discharge or the waterbody it may impact. What constitutes a discharge? Anything that breaks the plane of a manhole regardless of volume? Clarification is needed.
- Comment 4.2.3 Ambiguities exist in the newly proposed definitions of both treated and untreated sewage. These definitions should be revised to distinguish accurately between combined sewer overflows ("CSOs") and "bypasses." The newly

proposed regulations use the term “bypass of sewage” to define both “partially treated sewage” and “untreated sewage.” See proposed NYCRR §§750-1.2(a)(63) and (96). However, under existing the department regulations, a “bypass” is “the intentional or unintentional diversion of wastewater or stormwater around any portion of a treatment facility having the effect of reducing the degree of treatment designed for the bypassed portion of the treatment facility.”.....The proposed definitions should be revised to maintain the relevant distinctions between treatment bypasses and CSOs, which are not “bypasses” but, rather, are permitted discharges that are subject to distinct notice requirements under the SPRTK Act. The rule should be revised to clarify that only partially treated or untreated sewage that reaches the waters of the State should be subject to the new reporting requirements.

Comment 4.2.4

Clarification is needed regarding the type of “discharges” that need to be reported pursuant to 6 NYCRR Parts 750 and 621. The first criterion is whether the discharge is in accordance with a the department plan or permit. If the answer is no, it is NYWEA’s interpretation that only those discharges that reach surface waters of the State are to be reported based upon the definition under newly numbered §750-1.2(a) (28) (“Discharge means any addition of any pollutant to waters of the State through an outlet or point source.”). This interpretation would meet the Legislative intent of the SPRTK Act if additional public health threat considerations are inserted into the regulations – see Comment #8.

Comment 4.2.5 Define an overflow.

Response to comment 4.2: Part 750 defines a discharge as the following:

Discharge means any addition of any pollutant to waters of the State through an outlet or point source.

40 CFR defines discharge as the following:

Discharge when used without qualification means the “discharge of a pollutant.” Discharge of a pollutant means: (a) Any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or (b) Any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any “indirect discharger.”

NYS defines waters of the state to include both surface water and groundwater.

5. Comments Taken into Consideration

The department acknowledges the following comments, and will take them into consideration.

- Comment 5.1.1 The ECDSM has setup successful communication protocols that appear to be more effective than the daily/termination reports proposed in the rulemaking. As just one example, the County's Southtowns Advanced Wastewater Treatment Facility (AWTF) is directly adjacent to Woodlawn Beach State Park. The ECDSM, State, and local officials have successfully worked out meaningful dialogue parameters in the instance where there is an issue in the watershed during bathing season at the beach. This has resulted in good back-and-forth communication (if need be) and a clear understanding of what the issue is for the benefit of the public. The local health department of the department Region 9 has periodically contacted the ECDSM directly when it had a specific concern. There are already means of communication in place.
- Comment 5.1.2 Provide funding for improvements to reduce overflows.
- Comment 5.1.3 Please put these regulations in place quickly before more people are unnecessarily exposed to sewage pollution; I have an ear infection today from swimming yesterday here in East Marion, NY.
- Comment 5.1.4 TWIMC: As a taxpayer in Allegany County NY I am entitled to know if hazardous, especially radioactive, waste is being transported or possibly spilled on the roadways that I help pay for. I support strict enforcement of the provisions of this law through setting up citizen notification of accidents and required testing of all sewage spills that may contain radioactive materials.
- Comment 5.1.5 Just another UNFUNDED state mandate on local municipalities. The state NEEDS to start pouring billions of dollars into the water and wastewater infrastructure.
- Comment 5.1.6 More manpower is required.
- Comment 5.1.7 While SPRTK may have been well intended, the overall goal needs to be re-thought. The SPRTK notifications going to the general public may result in Information Overload. The average citizen doesn't understand what the information means. Personally, people seeing regular alerts, say for the Hudson River will avoid the water body entirely.

6. Comments Not Applicable to SPRTK or the Proposed Regulations

The department considers the following comments inapplicable to draft regulations or the SPRTK law.

- Comment 6.1.1 With all that is happening right now regarding public awareness and the public's desire to keep our waters clean and safe in NYS from Fracking waste, it is hard to imagine that there would be no testing done of the sewage sludge that spilled on Route 19 recently. We know that there has been fracking waste delivered to the Angelica landfill and that there is a risk of hazardous waste coming from the landfill. To not test the waste spilled seems negligent. I hope it does not happen again. As you are considering regulations about our right to know, I hope you will make sure that a future spill would include some sort of testing before all is washed away...so that we really do know what is being put into our waterways.
- Comment 6.1.2 There was a recent spill along NYS Rt. 19 in Allegany County which shut down this major artery for several hours. There were no samples taken by the department, the Emergency Services people, the Haz Mat crew, the Health department, the State Police the local firemen, or anybody. Why? Because the local officials, responsible for the spill, downplayed the potential seriousness of the concentrated filter cake/sludge/leachate /med wastes/heavy metals/radioactive tailing particulates etc. which were likely to be present in the material. Much of the sludge ended up in the Genesee River via the local car wash. Sewage discharge reports should give most recent characterization of the material spilled based on testing as well as require sampling of the actual material spilled. Some level of evaluation of impact to nearby waterbodies should be provided, testing performed if appropriate and people recreating in same warned. The Public Health Agency should be involved. There should be timely, consistent and truthful public notification. Emergency responders and the public should be told the full truth about what they are dealing with. The department should implement a proper and truthful, based on testing, classification of the waste and revamp the blanket harmless classifications and Best Use Determinations to often award these wastes for the sake of expediency and cost savings. Public officials who lie to the public and responders should be held liable and responsible for health impacts which may occur. Health departments should gather information and assess if spills have had impact on the public.
- Comment 6.1.3 As you know from previous notes of mine and others at the CCAC, Concerned Citizens of Allegany County, we are specifically concerned about sludge that can end up on the road in a traffic accident that is carted from the landfills to the sewage treatment plant and then to another landfill. This leachate could contain water soluble radium 226 that is trucked from the local landfill in our case Hyland landfill. Hyland is accepting the frack waste from Pennsylvania hydrofracking the marcellus shale. USGS has studied that shale and found it to be the most Uranium containing shale of all the other shales in the USA. PA has published a 200 page report in January 2015 titled Tenorm Report which contains the testing of radium contained at various landfills in PA. on page 120 of 200 pages it is reported that radium is in the leachate of all nine landfills that they used to deposit the frack waste in Pa. All nine of these landfills have leachate treatment plants at each landfill. In NY the same frack waste is sent to several landfills along the Southern Tier of NY from Pa and these landfills such as Hyland; do not have any leachate treatment plants. The frack waste is not counted or limited and the leachate could become more concentrated as Pa hydrofracks more wells over the coming years and send them to the same landfills without limits being set. The leachate is trucked daily to the local

municipal sewage treatment plant in Wellsville which is not equipped to process such waste. This summer when a truck load opened up and spread half a truck onto the roads. the department has an incident filed on this event. We want to know and what was in that sludge. Most people that includes landfill engineers do not seem to know that radium pollution in drinking water definitely causes cancer because the alpha radiation inside living tissue is ionizing- that means it can damage the molecular bonds of living DNA molecules inside the body and that causes cancer. Please do not ignore us in rural NY in the Southern Tier were we are concerned about any radium ending up in drinking water causing cancer in the future when it will hard to document or prove what caused the cancer.

Comment 6.1.4

An actual huge sewage (sludge) spill happened in Wellsville, NY on June 26, 2015.

Dear Editor of the Wellsville Reporter, Alfred Sun and Cuba Patriot, The department should do press releases on these matters but they have not so please post this entire information which is timely and call me if you have any questions 607-478-8793 Gudrun. On June 26, 2015 a huge amount of sewage sludge was spilled from a truck from Wellsville NY sewage treatment plant driving to Allegany county landfill in Belmont NY and the thick black sludge closed off Route #19 from Scio to Belmont for hours. Roads were cleaned and the wash water of the carwash was poured into the Genesee river. Chairman Fred Sinclair of Concerned Citizens of Allegany County CCAC phoned the department regional office in Buffalo and spoke with Tom Johnson of the spill division. Johnson said that no samples for testing were saved prior to clean up. He described the sludge as "residential" and upon further conversation he said it might have been filter cake (a much more concentrated hazard). Other CCAC members said at the next CCAC meeting that local ECO officer opinioned that the sludge was from "residential" sewage. However, the sewage treatment plant in Wellsville also accepts a daily truckload of leachate from Hyland landfill in Angelica and that landfill imports frack waste from Pennsylvania Pa might contain heavy metals and radioactive wastes. Lead sentence in the Wellsville Daily Reporter started by reporting that the waste was "nonhazardous". That is exactly what some of us citizens wanted to prove or disprove with testing. How scientific was it of the department not gathering any samples? When we have a spill of sludge on our roads, we do not want the citizens to be told that the spill was "nonhazardous" when it not even tested. Driving a car over the spill even if the car does not get splashed with the sewage, it may be carried in the tires treads and when the car is parked on the homes driveway, many a toddler is walking barefoot on the driveway. This is what the new law is trying to correct to warn the public about hazards. In light of this serious sewage spill in Wellsville on June 26, we request more time for comments from the department. Also request a public hearing locally. The local Environmental Conservation Police Officer ECO, said that the sewage was residential waste. That is beyond his job description of the ECO located here <http://www.dec.ny.gov/about/746.html>. The haz-mat specialists at the department that must be consulted and of course will want samples taken <http://www.dec.ny.gov/chemical/296.html>. In 2013 CCAC and the citizens have written over 3,000 comments why Hyland should not be permitted to increase daily tonnage of garbage and frack wastes by 49% and that permit has not been granted yet due in part to our vigilance and awareness and more. Please request more time for comments, a public hearing about the new law and informative, accurate press releases from the department to the newspapers.

Comment 6.1.6

I feel this type of site will have an extremely toxic environmental impact on our community and the health of the residents who live here. Unfortunately, I believe that when this site was discussed the decision to open it was already in the works. It is pretty sad that the residents who live in this community really do not have a say in what takes place right next to their homes. Politics regarding issues such as these are done behind closed doors (like a dictatorship) and the people who it truly affects have no voice in the decision making process that involves their lives and living in this community. I am sure the people who are making these decisions for this proposed site certainly do not live in this community!