

New York State Department of Environmental Conservation  
Division of Environmental Remediation

**New York State Re-Draft Hazardous Waste Facility Siting Plan  
And  
Draft Generic Environmental Impact Statement  
September 2009**

**Response to Comment**

**1. Comment:** Analysis of equitable distribution of facilities is flawed. There is no equitable distribution of hazardous waste facilities in New York State. Niagara County maintains an overwhelming burden. The only commercial hazardous waste landfill in the state is in Niagara County. Closed hazardous waste landfills are also located in Niagara County. Radioactive waste is in Niagara County. Accumulated toxic wastes in western New York must be taken into account. The proximity to the Great Lakes must be taken into account. These past practices have adversely affected the health of residents.

Response: The context for the “equitable geographic distribution” concept is in the statutory requirement that the State determine the “number, size, type and location by area” of needed facilities. Given the finding that no new facilities are needed, it follows that there is no need to create a scenario for the equitable distribution of new facilities. Nonetheless, the equitable distribution discussion in the plan assesses the current distribution of existing facilities in terms of “number, size, and type.” There is no provision in the law that requires the Department to assess the issue of burden of past disposal sites. There are thousands of sites where hazardous waste has historically been disposed across the state, many of which are now in the federal or State superfund program, or one of the State’s other remedial programs. Many more, likely thousands, remain outside of any State or federal regulatory or remediation program. And no region of the State was spared from this historic mismanagement of hazardous waste.

While the Plan is written to guide a Siting Board, a Board is free to consider additional factors, such as “accumulated waste,” in making its own determinations of necessity, public interest and equitable distribution. Chapter 9 of the Plan has been revised to make this point more clear.

**2. Comment:** The law requires consideration in the Plan of the type and size of facilities, including closed landfills, not just the number of facilities.

Response: The law requires a determination of new or expanded TSD facilities that are needed, consistent with other requirements of the law, but not an assessment of inactive or closed landfills.

A Siting Board may assess other factors in making its own determinations. Chapter 9 of the Plan has been revised to make this point more clear, and explicitly mentions the existence of closed landfills as something a Siting Board may consider.

**3. Comment:** The landfill method of management is permanent. All other methods are temporary. That is what makes the landfill method of management so much more hazardous and dangerous and vastly different from other management methods. The law on the subject of hazardous waste management should be amended to differentiate between types of facilities. Each type of facility should be graded on its handling method, how long that quantity remains at the site, its dangers and its daily, yearly and accumulated quantity. Closed landfills generate leachate, require maintenance and repairs, and operate under post-closure permits. Therefore, the identification of facility size for purposes of determining equitable distribution should include the amount of hazardous waste managed in closed as well as open commercial landfills. Each open or closed commercial hazardous waste landfill should be considered a separate facility to be consistent with the premise of “new or expanded capacity” established in siting law.

Response: To require these changes in approach to siting would require an amendment to the Statute.

**4. Comment:** RE: Equitable geographic distribution analysis: The breakdown of New York State into four sections seems arbitrary. Since the law requires DEC to conduct Siting hearings in each region, or 9 areas of the State, it may be more appropriate to consider at least 9 areas of the State rather than just 4.

Response: The Siting Plan has been revised to use the 9 DEC regions, as suggested.

**5. Comment:** The presentation of information in Chapter 6 was criticized. Suggestions were provided on presenting information on each facility regarding the type and quantity of waste managed.

Response: The details regarding waste quantity and management methods for each facility is in Appendix C. The Executive Summary and Chapter 1 also provide facility specific information. Chapter 6 has been revised to more clearly present the information required by the statute.

**6. Comment:** There should be no expansion of existing hazardous waste landfill capacity or opening any new sites in this State. Such operations have adverse affects on real estate values, residential construction, and tourism. Other management methods such as minimization, recycling and destruction, are preferred. Landfilling hazardous waste is not the answer. Reducing landfill capacity will improve the use of methods that are typically more cost-effective than land disposal.

Response: This issue is addressed by Chapter 9, which presents guidance to a Siting Board for a specific facility application.

**7. Comment:** There should be no continued operation of CWM.

Response: This is beyond the scope of the Siting Plan.

**8. Comment:** The draft Plan states that New York State does not need more hazardous waste landfill capacity. Overcapacity for landfilling has caused treatment companies to go out of business.

Response: Treatment of hazardous waste is occurring throughout the State, for example hazardous wastewater and remedial cleanups, as can be seen in Chapter 3.

**9. Comment:** Operation of CWM should be continued.

Response: This is beyond the scope of the Siting Plan.

**10. Comment:** The Plan falls short on guaranteeing enough in-state capacity for the disposal of hazardous waste. Having an in-state facility that provides safe, cost-effective disposal is crucial to cleaning up New York State. Loss of in-state capacity will greatly affect hazardous waste transportation costs with additional transportation risk and liabilities. Increased transportation will add to the carbon footprint of the waste. New York businesses are at risk that out-of-state facilities will not accept their waste.

Response: Consistent with the Siting Law, the Plan assures available capacity for waste generated in New York from both within and outside of New York's borders. Transportation issues are addressed in Chapter 7. Each state's regulation of the management of hazardous waste from within or from outside of the State must be consistent with federal requirements.

**11. Comment:** On-site remediation should be chosen whenever possible. Support those businesses engaged in safer environmental treatment options. More incentives should be offered to companies for the practice and promotion of recycling hazardous waste as an alternative to disposal and tax landfills to discourage landfilling over recycling.

Response: State statute and regulation govern selection of remedy for remedial actions. In addition to the hierarchy, ECL 27-1313 lists factors that must be considered specific to this process. Consideration of the hierarchy is addressed throughout the Plan, particularly in Chapter 2. Other issues are beyond the scope of the Siting Plan.

**12. Comment:** Set limits on the amount of waste that can be disposed of in each geographic region. Set reduction goals by facility for toxic waste generation, which if not met, would result in imposed taxes.

Response: This is beyond the scope of the Siting Plan.

**13. Comment:** The Plan is complete and very well prepared.

Response: The purpose of the detailed and lengthy process, including public input, is to ensure that the final product is complete and well prepared.

**14. Comment:** The Siting Plan should take the Great Lakes Restoration Initiative (GLRI) into account which will remediate an estimated 43 million cubic yards of "legacy contaminated

sediments.” including polychlorinated biphenyls (PCBs). Consideration of this project increases the need for hazardous waste disposal facilities.

Response: Much of these waste sediments might not be classified as hazardous waste under current regulations. The presence of hazardous substances does not automatically cause a waste to be designated hazardous. For example, PCB waste is not designated hazardous unless it contains over 50 ppm PCBs. The potential addition of new waste streams of RCRA-C hazardous waste is highly uncertain. If new waste streams were to be added to the universe of hazardous wastes by USEPA, it could impact the amount of hazardous waste generated in the future. However, the management of such waste could involve a number of management methods which cannot be pre-determined. The Department will continue to stay abreast of USEPA actions regarding this topic and consider the impact of any changes as the Siting Plan is reviewed in the future.

**15. Comment:** The need for facilities should be left up to the commercial facilities to determine. The risk of whether a market exists for a facility’s operation is up to them. It is not in New York taxpayers’ best interest to disallow any new businesses or to curtail existing businesses.

Response: The Siting Plan states that New York will continue to rely on the private sector to build and operate hazardous waste management facilities within the bounds of law. The Siting Plan states that, based on capacity, there is no need for additional hazardous waste management facilities. The law does not preclude any entity from submitting an application for a hazardous waste TSD facility. Still, if a Siting Board is required, it must consider whether a facility is otherwise necessary or in the public interest.

**16. Comment:** There is the appearance of a conflict of interest. DEC should not have the responsibility to produce the Siting Plan when they also have a need for land disposal, and the responsibility and ability to create and approve environmental laws, permits, treatments, movement, etc. of hazardous wastes, and clean-up and destination of shipments of hazardous wastes. The Department should contribute to the document, but not be its sole “guiding light.”

Response: The New York State Legislature, in enacting the Siting Law, required the Department to prepare the Siting Plan.

**17. Comment:** The law regarding hazardous waste management should be amended to increase fines for non-compliance. After a specific amount of accumulated non-compliance over a given time period or a specific amount of accumulated fines, a facility would have its permit to operate suspended or revoked. The Hazardous Waste Facility Siting Board should include non-compliances as a determining factor in siting or expanding a new or existing facility.

Response: Fines for non-compliance is beyond the scope of the Siting Plan. Compliance history is a factor included in Chapter 9 for consideration by a Siting Board.

**18. Comment:** The Plan’s discussion of pollution prevention and toxic-use reduction programs and the recognition of the need for a structured toxic use reduction law are appreciated. The plan should recommend that DEC draft a Toxic Use Reduction Act “Program Bill” and send it to the

Governor, Assembly and Senate for consideration. Specific content was suggested modeled after the Massachusetts statute.

Response: The inclusion of the discussion regarding the need for a structured toxic use reduction law reflects the Department's position on this issue. A requirement for the drafting of specific legislation is beyond the scope of the Plan.

**19. Comment:** It is not good public policy for the State to overly rely on outside facilities to take care of its waste disposal requirements. Reconsider the conclusion that the State does not need any further in-state disposal capacity, and actively support in-state private sector proposals that meet all applicable health and environmental regulatory and siting criteria, in the interest of prudent public policy.

Response: This is a Siting Board issue and is addressed in Chapter 9 in evaluating "otherwise necessary" or "in the public interest."

**20. Comment:** The Plan ignores the impact of state policy on market forces which have lead to reductions in hazardous waste generation over the years, and conversely, policies which improperly encourage land disposal over treatment or reclamation, etc. The Plan notes, "the continuing decline in the number of facilities in the state demonstrates that small facilities are no longer economically viable and that there may not be a meaningful market for new facilities in the State simply because of the availability of hazardous waste management services elsewhere." This statement ignores the impact of managing hazardous waste on-site by reduction, reclamation or recycling, and the Plan misses the opportunity to support the hierarchy by promoting on-site treatment of both primary and remedial wastes. The Plan should call for policy development to promote the hierarchy, not only for primary waste, but for remedial waste as well.

Response: The quoted statement was referring to commercial facilities. Chapter 2 addresses support of the hierarchy for all wastes. Use of the hierarchy for remedial wastes is specifically discussed in Chapter 3.

**21. Comment:** DEC should recognize the minority population that does exist within the Lewiston-Porter region, i.e. the Tuscarora Indian Tribe. This impacts the implementation of the Department's environmental justice policy in the area.

Response: The discussion of environmental justice in Chapter 6 includes its applicability to minority populations in general. It does not change existing EJ policy.

**22. Comment:** Although it is desirable to prevent, reduce, recycle, treat or incinerate hazardous waste, there are special types of treated waste or residuals for which landfill is the only feasible option. Nationwide there is still strong need to manage hazardous waste and landfill is the most feasible option next to incineration. The Plan expects New York generators to find facilities out of state irrespective of cost, liability, GHG emissions, and accidental environmental harms concerns. For this generator, the cost of waste disposal at a facility out of state would increase in the range of \$60,000 to \$3.1 million per year depending on the distance required for travel.

Another commentor stated that transportation outside of New York State will add another 30 - 50% to the cost of brownfield re-development; a cost developers can ill afford in these difficult economic times.

Response: While the Plan recognizes that landfilling of hazardous waste is still necessary, it also recognizes that it is the least preferred method for hazardous waste management. As such, cost cannot be the only factor in determining how best to manage hazardous waste consistent with the hierarchy. The cost to transport hazardous waste generally increases with distance, however, transporting by rail is the least expensive and most environmentally sound method in terms of green house gas emissions. It is difficult to estimate transportation cost based on case studies. Chapter 7 of the Siting Plan, therefore, uses a recognized estimating tool for this purpose.

**23. Comment:** Chapter 9 is a little vague. The finding that there is no need for additional hazardous waste management facilities in New York is a bit ambiguous. Should the public interpret that to mean that with all *continuing and existing efforts* there is no need for additional facilities? If the intent is that no facilities would be added or permitted to continue operations and businesses were to ultimately rely on out-of-state facilities, what would be the purpose of the plan? The “in the public interest” piece needs more guidance.

Response: The intent of Chapter 9 is to provide guidance without being prescriptive and to acknowledge the discretion allowed a Siting Board in applying such guidance. Additional guidance has been added to the Chapter regarding “otherwise necessary” and “in the public interest.” Evaluation of the conclusion regarding need based on capacity will be part of the annual review of the Plan.

**24. Comment:** In Chapter 9, “In the Public Interest,” it is recommended that exceptions *not* be made for economic benefits, and that public health and environmental protection be recognized as a priority. Creation of jobs should also not be a sufficient reason for approving a proposed facility. If you’re going to say economic benefits, you need to say offset by the detriments.

Response: Chapter 9 has been clarified to balance both economic and environmental concerns.

**25. Comment:** LDRs may reduce the risk to public health and the environment, but they do not *assure* safety. Statements in the Plan that state that LDRs assure that public health and the environment will be protected should be removed. While it may be true that “as a result of implementation of the LDRs, the toxicity and mobility of the treated residuals that are now allowed to be disposed in a hazardous waste land disposal facility are dramatically reduced,” it is equally true that much of the waste disposed of at CWM continue to pose a not insignificant threat to public health or to the environment. The draft plan must be significantly revised to address this anomaly.

Response: Chapter 4 has been revised to clarify how the LDR process works and is applied. It was expanded to more clearly address the hierarchy and re-titled “Land Disposal Phase Out – Moving up the Hazardous Waste Management Hierarchy.” The Department will, as part of its annual review, continue to evaluate the status of USEPA’s LDR rulemaking efforts.

**26. Comment:** With the changes in the Brownfields Cleanup Program, there will be a greater need for hazardous waste disposal going forward than the last decade may have indicated is necessary.

Response: The evaluations conducted as part of development of the Plan do not bear this statement out. Detailed analysis is provided in Chapter 3. In addition, the hierarchy will continue to be used when determining appropriate remedial options for brownfields, including both on-site and off-site options.

**27. Comment:** The Plan does not consider capacity for TSCA regulated wastes, even though PCBs are regulated as a hazardous waste in New York.

Response: A discussion of PCB waste management capacity has been added to Chapter 6.

**28. Comment:** The Plan should define what the discrete product markets are for types of hazardous waste and what geographic markets they serve, as the Plan states that “state boundaries are not the salient factor in determining where a generator will ship a particular waste.” (p. 6-2)

Response: The Plan continues to rely on New York State policy that the private sector will assure available markets for types of hazardous wastes and what geographic markets they serve.

**29. Comment:** Chapter 6 leaps from raw facts to half-baked conclusion (existing distributions are equitable), with a negligible explanation of what rationale the drafters used to reach that conclusion. This alone may be enough to render the plan arbitrary and capricious as a matter of law; as the US Supreme Court has stated, “the agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Manufacturers’ Ass’n v. State Farm Mutual Ins. Co.*, 463 U.S. 29, 42 (1983).

Response: The discussions in Chapter 6 meet the requirements of the Statute.

**30. Comment:** The discussion on environmental justice improperly limits focus to race and income. ECL 27-1102 provides a separate mandate to take account of a different kind of environmental justice – that is the geographic concentration of toxic waste facilities and pollutants in western New York.

Response: The discussion of environmental justice in Chapter 6 is in addition to the discussion of equitable distribution and includes its applicability to minority populations in general. It is consistent with existing EJ policy and the statewide requirements regarding equitable distribution.

**31. Comment:** The Siting Plan defers to market forces to assure adequate hazardous waste management capacity. This is not appropriate for assuring geographic equity. This will not reverse the concentration of toxic waste in Western New York. The redraft tries to pass the buck

on equitable geographic distribution to Siting Boards, who will lack the expertise, legal power, and procedural context to address this issue properly. This is a clear violation of ECL 27-1102.2.

Response: The text in Chapter 6 regarding equitable geographic distribution has been clarified to more clearly present the requirements of the Statute.

**32. Comment:** The 10 million tons of hazardous waste permanently managed in Niagara County far exceeds the amount handled by facilities in other parts of the state. The Plan should report the amount of waste under long-term management in open and closed commercial hazardous waste landfills, and report the number of all open and closed commercial hazardous waste landfills, and therefore conclude that treatment, storage and disposal facilities are not equitably distributed.

Response: Past management practices can be considered by a Siting Board, as discussed in Chapter 9. Large cleanups of past practices is felt across the state including the New York City area, the Capital District area, Saratoga/Warren and Washington Counties, the Massena/Watertown area, Onondaga County, Monroe County, and Erie County, in addition to Niagara County. The law does not require discussion or analysis regarding inactive hazardous waste landfills. Equitable geographic distribution of active hazardous waste management facilities is presented in Chapter 6.

In its guidance to the Siting Board, the Plan states that a Board is not limited to the criteria employed by the Department in determining equitable distribution. Chapter 9 of the Plan has been revised to make this point more clear and mentions closed hazardous waste landfills for possible consideration by a Siting Board.

**33. Comment:** Chapter 4 – The plan does not discourage land disposal, as is required by the hierarchy. A full chapter of the plan is devoted to the progress made in phase out untreated wastes and progress in treatment and stabilization under the LDRs. This unfortunately implies to the reader that, contrary to the hierarchy, land disposal is safer and better in the long term than detoxifying, destroying or recycling it. Reduction in mobility does not equate to reduction in toxicity. 27-0105.d refers to the risk of hazardous waste to human health and the environment absent any containment (land disposal), and therefore, mobility may not be particularly relevant to compliance with 27-0105.d.

Response: ECL 27-0105 is intended to guide hazardous waste policies and decisions but does not explicitly refer to risk of hazardous waste to human health or the environment. Specific hazardous waste land disposal requirements are in ECL 27-0912. Chapter 4 was written to address the requirements of ECL 27-1102.2(d) and 27-0912. It has been revised to clarify how the LDR process works and is applied and expanded to more clearly address the hierarchy. Chapter 4 was re-titled “Land Disposal Phase Out – Moving up the Hazardous Waste Management Hierarchy” to more clearly reflect the content of the Chapter. The Department will, as part of its annual review, continue to evaluate the status of USEPA’s LDR rulemaking efforts.

**34. Comment:** Hazardous waste, whether treated or untreated, poses a significant threat to human health and the environment as long as it is classified as “hazardous.”

Response: We disagree. The Federal 1976 Statute which enacted RCRA defines hazardous waste as “a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may...pose a substantial present or potential hazardous to human health or the environment when **improperly** treated, stored, transported, or disposed of, or otherwise managed” (emphasis added).

**35. Comment:** Environmental Justice is appropriate to the siting criteria reviewed by a Siting Board for each site-specific application. This is different from equitable distribution required under 27-1102.f, which is a prerequisite to the consideration of EJ. The Plan should be clear that EJ is not a substitute for compliance with equitable distribution requirements. There are no protections in EJ policy for rural communities which typically shoulder large, high-risk and /or permanent environmental burdens. Landfills are one example. The EJ policy is too narrow and rigid to be guidance for Siting Boards as presented in Chapter 9. A Siting Board must consider the cumulative negative effects of all such operation in the targeted community.

Response: Chapter 6 of the Plan addresses Environmental Justice Policy and equitable geographic distribution as two separate issues. The Plan does not alter the existing EJ policy. Chapter 9 was expanded to be clear that a balanced evaluation is required by a Siting Board.

**36. Comment:** The need for facilities to process the waste and flowback water from the hydrofracturing process that is being proposed for the Marcellus and Utica Shale formations in New York State must be considered. 12 new wastewater treatment plants are proposed for Northern Pennsylvania as a result of drilling in that State. It is probable that similar proposals will surface in New York in the event horizontal drilling and high volume hydro fracturing is permitted here. Waste water facilities are an important part of New York’s waste handling operations, and will become even more so if this drilling is approved. The plan appears to be inconsistent in its treatment of these facilities, showing them in some instances, and leaving them out of other calculations and inventories.

Response: Text has been added to Chapter 3 to address the impact of future new hazardous wastes. The potential addition of new waste streams as RCRA-C hazardous waste, such as Marcellus Shale waste, is highly uncertain. If new waste streams were to be added to the universe of hazardous wastes by USEPA, it could impact the amount of hazardous waste generated in the future. However, the management of such waste could involve a number of management methods which cannot be pre-determined. The Department will continue to stay abreast of USEPA actions regarding this topic and consider the impact of any changes as the Siting Plan is reviewed in the future.

**37. Comment:** The Plan is required to assure 20 years of in-state hazardous waste disposal capacity or reach a written accommodation with other states on material disposal. This plan seems to accept another approach which relies on available national capacity, lessening the need to expand or build additional state facilities. This plan needs to address state disposal capacity requirements already stated in law. New York does not have any interstate agreements and so must rely on in-state capacity for the purposes of the Siting Plan in order to comply with the Statute.

Response: The Plan provides the assurances required by ECL 27-1102.1, and is consistent with current federal policy and decisions regarding hazardous waste management.

**38. Comment:** History – the impetus for the 1987 Act was not concern about the federal requirement for State’s assurances for 20 years of hazardous waste treatment or disposal capacity in order to received federal cooperation on remedial clean-up activities, rather the impetus was the landfill in Porter, the recognition that landfill disposal had to stop, and the necessity of geographic and equitable distribution of any future management facilities.

Response: Additional information on the history of New York State law and actions regarding hazardous waste management has been added to the Introduction. The Plan is written to address the specific language and requirements set forth in New York State law at ECL Section 27-1102.

**39. Comment:** The statutory definition of treatment is critically different from the federal definition of treatment. Phase out landfilling of hazardous waste that has not been biologically or chemically changed to a benign state.

Response: Chapter 4 has been revised to address the differences in the definition of the term “treatment” and the resulting impacts on the requirements of the hierarchy.

**40. Comment:** The available capacity estimated in the plan is seriously underestimated. Full national capacity should be considered, not just the northeast. (Other points to support this statement were presented.)

Response: Both national capacity and the capacity in the northeast quarter of the country is considered in the evaluation of need based on capacity presented in Chapter 6.

**41. Comment:** Chapter 9 does not provide guidance to a Siting Board on how to determine the relative facility burden of a geographic area. The plan must provide guidance on assessing disproportionate burdens posed by various types of hazardous waste facilities, particularly by size and type.

Response: The law does not require the Siting Plan to provide guidance to a Siting Board regarding analysis of disproportionate burden.

**42. Comment:** By relying on EPS’s national Capacity Assessment Report, the Draft Plan finds that there is adequate national land disposal capacity through 2026. The text of that EPA report states that the landfill capacity data “include landfill cells that are not yet permitted, but are at landfills that are permitted and operating.” The most recent data available on the EPA website for Expected maximum Commercial Subtitle C Land fill Capacity appears to include over 7 million tons of new capacity constructed in New York between 1993 and 2013. Thus, the draft Plan documents that New York needs additional commercial land disposal capacity.

Response: The final Plan now uses USEPA’s most recent capacity analysis, found in Appendix E. This July 17, 2009 memorandum regarding capacity assurance indicates that there is adequate

national capacity in all hazardous waste management categories through December 31, 2034. It further says that States may refer to this memorandum as a basis for assuring adequate hazardous waste management capacity. DEC staff spoke with USEPA staff involved with the development of the data and analysis and were told that only capacities presently approved by States were included in the long term analysis.

**43. Comment:** By 2016, there will be only one hazardous waste land disposal facility in the Northeast quadrant of the United States. It is contrary to 27-1102.1(b) and bad public policy to rely on a single out-of-state facility for all of New York's hazardous waste land disposal capacity needs. In the absence of any competition, there will be no effective controls on pricing at that facility. If that single facility has limits on gate receipts added by their State, New York generators may be shipping wastes to Alabama, Texas or other western states.

Response: The Siting Plan addresses present and projected capacity. Economic concerns are addressed by the "otherwise necessary" or "in the public interest" components of a Siting Board evaluation.

**44. Comment:** The Department must consider not only existing waste streams, but the capacity needs for newly designated hazardous waste streams. EPA has a pending proposal to include some coal combustion waste streams as hazardous waste which would increase volumes to be handled by Subtitle C land disposal facilities from 2 million to 134 million tons per year. Even if this is not implemented, the State must plan and be ready to manage some measure of newly identified hazardous waste streams.

Response: Text has been added to Chapter 3 to address the impact of future new hazardous wastes. The potential addition of new waste streams as RCRA-C hazardous waste is highly uncertain. If new waste streams were to be added to the universe of hazardous wastes by USEPA, it could impact the amount of hazardous waste generated in the future. However, the management of such waste could involve a number of management methods which cannot be pre-determined. The Department will continue to stay abreast of USEPA actions regarding this topic and consider the impact of any changes as the Siting Plan is reviewed in the future

**45. Comment:** Numerous comments on specific verbage in each chapter were received.

Response: All comments received have been aggregated into the summary comments presented in this response. Specific comments on language verbage have been reviewed and changes incorporated into the document as appropriate.

**46. Comment:** Specific siting criteria were suggested.

Response: The Siting Law does not require the Plan to address specific siting criteria. Specific siting criteria are addressed by 6 NYCRR Part 361.

**47. Comment:** Strict local compliance with SEQR procedures should be required. Responsible concurrent state and local review is necessary without premature decision by either the local municipality or a Siting Board.

Response: Any application for a hazardous waste facility must follow applicable state law and regulation, including SEQR.

**48. Comment:** Chapter 4 is required to have a timetable for no more landfilling.

Response: 6 NYCRR Part 376 addresses the mandates of 27-0105 and 27-0912. Both statutes state that landfilling of treated residuals posing no significant threat to the public health or to the environment is allowed.

**49. Comment:** The DGEIS doesn't give a clue as to what's happening. It should be a guidepost as to governmental decisions.

Response: Consistent with the requirements of the ECL, this is a generic document on a Plan and does not replace the need for a site specific environmental impact statement for a specific facility.

**50. Comment:** In Chapter 9, the past and present activities at the property are to be considered by a Siting Board. This should be expanded to require consideration of the totality of environmental burden on the targeted community. It must be clear that public health is paramount.

Response: Chapter 9 has been expanded to more specifically include impact on local communities for Siting Board consideration.

**51. Comment:** The Federal mandate for LDRs says that hazardous waste and landfill facility has to pose no threat. State law states that the treated residuals shall not pose any threat to the public. The State has a stricter standard.

Response: This is addressed in Chapter 4. The hierarchy establishes the guidance that landfilled treated residuals shall not pose a "significant threat to the public health or the environment."