

January 17, 2025

Via electronic mail

Sean Mahar

Acting Commissioner, NYSDEC

Sean.Mahar@dec.ny.gov

Subject: Request for Immediate Rulemaking for On-site Treatment and Disposal of Landfill Leachate

Dear Acting Commissioner Mahar,

We write to urge the New York State Department of Environmental Conservation (DEC) to immediately initiate the rulemaking process to establish new regulations under 6 NYCRR Parts 360 & 363 regarding the effective management, treatment, and disposal of landfill leachate. Additionally, we respectfully request a 90-day public comment period in connection with this proposed rulemaking to ensure meaningful public participation.

In June 2023, the DEC hosted a virtual stakeholder meeting—largely attended by landfill operators—to present initial concepts for managing municipal solid waste landfill leachate and solicit feedback for future rulemaking. Subsequently, the DEC’s 2024 Regulatory Agenda pledged to open the rulemaking process for these new regulations by year-end. Unfortunately, this commitment was not fulfilled. Onsite treatment and disposal of leachate has now been reintroduced in the DEC's 2025 Regulatory Agenda.¹

Recent findings highlight the urgency of this issue. A major new report entitled *The Threat of Landfill Leachate to Drinking Water in the Hudson and Mohawk Rivers*,² exposes regulatory gaps—the so-called “Leachate Loophole”—that allow

¹ DEC’s 2025 Regulatory Agenda once again states that it may introduce a proposed rulemaking to amend 6 NYCRR Parts 360 and 363 to address on-site treatment and disposal of landfill leachate. <https://dec.ny.gov/regulatory/agenda>

² *The Threat of Landfill Leachate to Drinking Water in the Hudson and Mohawk Rivers* (December 17, 2024), https://docs.google.com/document/d/1M5W0-GJ3umRlqMKHNa_FPCL-qSqrSeCpUOTv3JCApHA/edit?tab=t.0#heading=h.v33rxnwu8b2v

untreated landfill leachate to be sent to municipal wastewater treatment plants (WWTPs), which discharge the landfill leachate and the highly concentrated contaminants it contains directly into the Hudson and Mohawk Rivers. These rivers serve as drinking water sources for approximately 368,000 people.

The report, based on public records obtained via the Freedom of Information Act, reveals that from 2019 to 2023, an estimated 89 million gallons of landfill leachate were discharged annually into the Hudson River Estuary and Mohawk River. While modern landfills implement measures to contain leachate and protect nearby groundwater, once collected, leachate is often transported to municipal WWTPs. These facilities are designed for sewage, not the toxic substances in leachate, leaving harmful contaminants untreated and discharged into waterways. The downstream burden of removing these contaminants then falls to drinking water treatment plants—often without the knowledge of upstream WWTP leachate discharges. Communities relying on these rivers for drinking water bear significant financial costs, and in some cases, lack the necessary infrastructure to effectively treat these pollutants.

The current regulatory system is failing to adequately address the leachate problem. A new waste management regime is necessary to protect the public and shift cost burdens away from municipalities and back to polluters. The rulemaking process would allow various stakeholders to collaborate in designing a system that is both equitable and efficient.

The risks to public health and water quality posed by the current practice are clear. Immediate action is critical to protect drinking water supplies, ensure accountability, and modernize outdated waste management practices. For these reasons, we strongly urge the DEC to move forward promptly with new regulations.

Thank you for your attention to this critical matter. We look forward to the DEC taking decisive action to protect New York's waterways and public health.

Sincerely,

Judith Enck

Former EPA Regional Administrator
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Beyond Plastics

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cc:

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*Director, Bureau of Solid Waste Management,
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Rep. Paul Tonko
Senator Pete Harkham
Senator Michele Hinchey
Senator Mark Walczky
Senator Rob Rolison
Senator Jake Ashby
Senator James Tedisco
Senator Rachel May
Assemblymember Debroah Glick
Assemblymember Pat Fahy
Assemblymember Robert Smullen
Assemblymember Angelo Santabarbara
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