September 9, 2026

Via email SolidWasteRegulations@dec.ny.gov

New York State Department of Environmental Conservation
Division of Materials Management
635 Broadway, Albany, NY 12233-7260
ATTN: Rebecca Vaughan

Re: Comments on Proposed Part 360 Series

Dear Ms. Vaughan:

The undersigned coalition of organizations and community groups from across New York State appreciates the opportunity to provide comments on the New York State Department of Environmental Conservation's (DEC) proposed amendments to 6 NYCRR Part 360 and 363 concerning the treatment and disposal of landfill leachate. This rulemaking is a historic opportunity for New York to address the critical gaps in how landfill leachate—a complex liquid waste stream containing toxic chemicals—is treated before it reaches our waterways. We urge DEC to adopt a comprehensive approach that protects New Yorkers, advances science-based solutions, and positions New York as a leader in responsible leachate management. While we support DEC's plan to implement regulations for treating landfill leachate, these comments recommend significant changes to the proposed regulation with the goal of providing more comprehensive and enforceable protections for human health and the environment.

I. Introduction

According to a 2026 report by New York River Watch (NYRW), 532.3 million gallons of leachate, on average, are transported to sewage treatment plants (STPs)[1] annually in New York, and at least 100 million more gallons were reported by landfills but unconfirmed by STPs.[2] With few exceptions, this leachate disposal occurs without pretreatment. STPs are designed to treat human sewage, not the complex industrial chemicals found in landfill leachate. These facilities are not equipped to remove or neutralize the broad range of contaminants present in landfill leachate, including per- and polyfluorinated alkyl substances (PFAS), metals, and pesticides.

This results in pollution of surface water and contamination from sewage sludge, which may be applied to land. Approximately one-third of the leachate disposed of annually at STPs in New York is then discharged via those STPs into designated drinking water sources.[3] Even more is

[1] Sewage treatment plants (STPs) are often referred to as wastewater treatment plants (WWTPs), publicly operated treatment works (POTWs), or water resource recovery facilities (WRRFs). For clarity, we refer to them throughout this report as sewage treatment plants (STPs).
[2] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, Key Findings.
[3] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, Key Findings.

discharged upstream of designated drinking water sources, or in waters that are prone to mix with them.[4]

DEC's proposed regulations are an important step forward for landfill leachate management in New York. In issuing this rule, New York will become one of the first states in the U.S. to require leachate pretreatment. In its supporting documents, DEC states that the goal of this regulation "is to minimize the re-introduction of contaminants into the environment."[5] To truly achieve this goal, the proposed rule requires significant revisions to fully address the dangers of leachate contamination and ensure leachate is adequately treated to protect water quality and public health. To close the gaps in the proposed regulatory framework and address the substantial risks posed by leachate, DEC must amend the regulations to include the following:

- Mandate pretreatment for all landfills collecting leachate, including inactive facilities, landfill remediation sites, ash monofills, industrial landfills, out-of-state exporters disposing in New York, and facilities that utilize groundwater collection as a leachate control mechanism;
- Require treatment of all parameters for which the United States Environmental Protection Agency (EPA), DEC, and/or New York Department of Health (DOH) have developed surface water standards and/or drinking water standards, to the most protective numerical limits in the above;
- Require all PFAS measurable via EPA Method 1633 be removed from landfill leachate;
- Require regular technical review of best practices and incorporation of the most health-protective standards and treatment technologies;
- Include strict, long-term financial assurance requirements for all leachate treatment facility permittees to ensure that state funds are not required to remediate or operate abandoned treatment infrastructure in the future;
- Mandate a regional cumulative impact assessment for any off-site or regional leachate treatment application;
- Clearly define leachate treatment byproduct disposal methods that present the least possible risk of re-introducing contaminants into the environment, including a prohibition on using leachate treatment byproducts as alternative daily cover;
- Prevent out-of-state waste shifting;

[4] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, p. 24.
[5] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Summary of Express Terms (p. 7) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf

- Modernize and expand the recordkeeping and reporting requirements for landfill leachate facilities by establishing a centralized digital reporting protocol, increasing reporting frequency, enforcing source-linked contaminant tracking, and including tracking of leachate treatment byproduct disposal; and
- Require a full technical review of all leachate treatment facility permits issued upon expiration. DEC must avoid administrative extensions and renewals. Until the proposed regulations are implemented, sewage treatment plants with outdated SPDES permits that receive landfill leachate should be prioritized for full technical reviews under the Environmental Benefit Permit Strategy (EBPS).

While this regulation mitigates the problem of landfill leachate pollution, it is not a complete solution. The regulation would require leachate treatment facilities to remove certain chemicals, with the treatment byproducts likely deposited back into landfills. This creates a system in which toxic pollution will cycle through waste management infrastructure (landfills and leachate treatment facilities) in perpetuity. In addition to requiring and regulating the pretreatment of leachate, DEC must also take steps to identify and implement long-term solutions to end this cycle. This includes research to advance technologies that can destroy toxic substances in leachate, with the ultimate goal of incorporating contaminant destruction into the leachate management process. New York must also address chemicals "upstream," at the point of approval and manufacture, to prevent hazardous contaminants from entering circulation in the first place. In parallel, New York should explore mechanisms to ensure that polluters, rather than municipal taxpayers or local communities, bear the primary financial burden for leachate treatment.

II. Overly Broad Exemptions Undermine DEC's Leachate Pretreatment Rulemaking

A. Regulating only 32 landfills is fundamentally inadequate

The stated purpose of DEC's proposed revision to 6 NYCRR Part 360 and Part 363 is to mandate the pretreatment of landfill leachate generated at Municipal Solid Waste (MSW) and Construction and Demolition (C&D) debris landfills with leachate collection systems. The overarching goal of DEC's proposed rulemaking is to improve leachate management and minimize the discharge of contaminants into the environment.

Many chemicals that have been banned or phased out of commerce due to known ecological and human health risks, including PFAS, toxic metals, and pesticides, continue to appear in landfill leachate because they persist in waste deposited decades ago. Historically, landfill leachate has been transferred to STPs for disposal. However, these facilities are engineered specifically to process human waste, not the complex synthetic chemical mixtures contained in landfill

leachate.[6] STP State Pollutant Discharge Elimination System (SPDES) permits concentrate on traditional sanitary indicators (e.g., biological oxygen demand (BOD), total suspended solids, pathogens), and rarely limit the synthetic chemicals commonly found in landfill leachate. As a result, it has long been an accepted practice for municipal STPs to receive leachate, provided that the diluted stream does not interfere with the plant's BOD or other related operational parameters. The current treatment of landfill leachate at STPs relies entirely on dilution with other wastewater streams to lower concentration levels of leachate-associated contaminants.[7] However, dilution does not reduce or destroy the threat of many toxic contaminants; it merely disperses them over larger volumes of receiving waters, facilitating long-range transport and bioaccumulation in aquatic ecosystems. Except for a fraction of the toxic chemicals that are adsorbed into sewage sludge (which creates a separate disposal hazard), the vast majority of leachate contaminants pass directly through conventional treatment methods uninhibited. At this time, there is insufficient testing of treated sewage effluent to know if leachate-associated contaminants are even diluted to the degree that discharges will not impact compliance with ambient surface water quality standards.

Under the proposed revisions to Part 360 and Part 363, DEC's pretreatment mandates only apply to currently active MSW landfills and currently active C&D debris landfills that have leachate collection systems. DEC estimates that this rulemaking will apply to 25 active MSW landfills and seven (7) active C&D debris landfills statewide.[8] Regulating only 32 facilities is fundamentally inadequate. NYRW and DEC data demonstrates that at least 82 landfills (37 active and 45 inactive) routinely discharge leachate at STPs located within New York State.[9] By limiting regulatory applicability, DEC arbitrarily exempts:

- Inactive Landfills & Environmental Remediation Sites: 45 inactive landfills collect leachate specifically to prevent groundwater contamination. Of these, 27 are classified as active environmental remediation sites due to known hazardous waste deposits (including industrial solvents, heavy ash, pesticides, and industrial sludges).[10]

- Ash Monofills: High-density waste streams containing concentrated heavy metals and combustion products.

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[6] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Summary of Express Terms (p. 3) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf
[7] EPA. (2021). *State of the Practice of Onsite Leachate Treatment at Municipal Solid Waste Landfills*. EPA/600/R-21/182.
[8] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Summary of Express Terms (Table 1) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf
[9] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, Key Findings; *see also Types of Solid Waste Landfills in New York State*, NYSDEC https://dec.ny.gov/environmental-protection/waste-management/solid-waste-management-facilities/landfill-types (Accessed Aug. 20, 2026).
[10] For purposes of this comment letter, leachate-generating landfills are categorized as environmental remediation sites if they are on the NYS List of Hazardous Waste Sites.

- Out-of-State Landfills: Facilities in neighboring states (e.g., Vermont, Massachusetts, Pennsylvania) that export millions of gallons of untreated leachate into New York STPs annually.[11]

- Industrial Landfills: Landfills that accept non-hazardous waste resulting from industrial operations and manufacturing.[12]

Excluding these facility categories allows at least 74,198,920 gallons, on average, of untreated landfill leachate to continue to be discharged into New York STPs and receiving waters every year without pretreatment. The table below identifies active and inactive landfills that routinely discharge leachate at STPs located within New York that are deemed exempt by DEC:

Landfill Name	**Average Annual Volume (gallons**	**Landfill Activity**	**Landfill Type**	**Receiving Sewage Treatment Plant**	**Receiving Water**	**Receiving Water Classification**
Croton Point Sanitary Landfill	10,921,576[13]	Inactive	Remediation Site	Ossining Wastewater Treatment Plant	Hudson River	SB
Laidlaw Inc. SLF	8,667,200	Inactive	Inactive Landfill	West Carthage Water Pollution Control Facility	Black River	C
Sprout Brook Ash Pit	8,224,180	Inactive	Inactive Landfill	Peekskill Waste Water Treatment Facility	Hudson River	SB
Babylon Southern Ashfill	5,841,500	Active	Ash Landfill	Bergen Point WWTP	Atlantic Ocean	SA
New England Waste	5,651,241	Active	Out-of-State MSW	Plattsburgh Water	Saranac River	C

[11] For the reasons discussed below, out-of-state facilities that send leachate to a New York State Pollutant Discharge Elimination System permitted facility are required to treat leachate.
[12] *Types of Solid Waste Landfills in New York State*, NYSDEC https://dec.ny.gov/environmental-protection/waste-management/solid-waste-management-facilities/landfill-types (Accessed Aug. 20, 2026). There are currently nine (9) industrial landfills operating in New York that collect leachate, but the method of leachate disposal at these is unclear.
[13] This estimate is based on incomplete information. The data gaps indicate that the true volume may be millions of gallons more. *See* NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, p. 12.

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
Services of Vermont (Coventry, VT)			Landfill (Vermont)	Resource Recovery Facility		
Rush Industry Landfill	4,577,302	Inactive	Remediation Site	Frank E Van Lare Wastewater Treatment	Lake Ontario	A
Babylon SLF	2,540,854	Inactive	Remediation Site	Bergen Point WWTP	Atlantic Ocean	SA
Central Service SLF	2,354,980	Inactive	Inactive Landfill	Canajoharie - V STP	Mohawk River	B
Eastern Service SLF (Eastern LF (Mosa))	2,162,232	Inactive	Inactive Landfill	Amsterdam - C Wastewater Treatment Plant	Mohawk River	C
Madison County Landfill	1,793,797	Inactive	Remediation Site	Oneida - C STP	Oneida Creek	C
	224,352			Rome Municipal Sewage Treatment Plant	Mohawk River	C
Wellsville-Andover (Village of Wellsville)	1,894,600	Inactive	Remediation Site	V - Wellsville Wastewater Treatment Plant	Genesee River	C
New Paltz (Town)	1,758,836	Inactive	Inactive Landfill	Kingston WWTF	Rondout Creek	C
	86,720			Beacon Water Pollution Control Plant	Hudson River	B
	32,200			Poughkeepsie STP	Hudson River	A
Lindley	1,772,513	Inactive	Remediation	Bath	Cohocton	C

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
Industrial LF (Steuben) (Lindley North)			Site	Wastewater Treatment Plant (Via Steuben County Leachate Pretreatment Facility)	River	
Rome Landfill	1,729,724	Inactive	Remediation Site	Rome Municipal Sewage Treatment Plant	Mohawk River	C
Town of Ulster Landfill	1,636,239	Inactive	Inactive Landfill	Kingston WWTF	Rondout Creek	C
	32,200			Poughkeepsie STP	Hudson River	A
Gloria Drive LF	1,562,000	Inactive	Inactive Landfill	Frank E Van Lare Wastewater Treatment	Lake Ontario	A
Smithtown Municipal Services Facility (SmithTown LF, Cells 1-5) (SmithTown Sanitary Landfill)	1,161,500	Inactive	Inactive Landfill	Bergen Point WWTP	Atlantic Ocean	SA
Old Bath Landfill	1,107,936	Inactive	Remediation Site	Bath Wastewater Treatment Plant (Via Steuben County Leachate Pretreatment Facility)	Cohocton River	C

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
Auburn SLF (C) (Auburn City Landfill)	940,533	Inactive	Remediation Site	Auburn Sewage Treatment Plant	Owasco Lake Outlet	C
Modern Waste (Browning Ferris)	782,200	Inactive	Remediation Site	Amsterdam - C Wastewater Treatment Plant	Mohawk River	C
Lindley Landfill (Closed Portion) (Lindley South)	780,831	Inactive	Remediation Site	Bath Wastewater Treatment Plant (Via Steuben County Leachate Pretreatment Facility)	Cohocton River	C
Edward Allen Landfill	748,132	Inactive	Remediation Site	Bath Wastewater Treatment Plant (Via Steuben County Leachate Pretreatment Facility)	Cohocton River	C
German Flatts, Lion, & Mohawk Landfill	661,640	Inactive	Remediation Site	Herkimer County Sewer District WWTF	Mohawk River	B
Rotterdam Town Landfill	605,360	Inative	Remediation Site	Rotterdam Sewer Dist #2	Mohawk River	A
Niagara County Refuse Disposal Dist Landfill	505,112	Inactive	Remediation Site	Lockport Wastewater Treatment Plant	Eighteenmile Creek	D
Catskill SLF (T)	434,420	Inactive	Inactive Landfill	Catskill - V WWTP	Hudson River	A

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
Al Turi Landfill	408,480	Inactive	Remediation Site	Beacon Water Pollution Control Plant	Hudson River	B
Ferdula Landfill	414,720	Inative	Remediation Site	Herkimer County Sewer District WWTF	Mohawk River	B
Jockey Hill (Darwack)	329,800	Inactive	Inactive Landfill	Kingston WWTF	Rondout Creek	C
Bourne	333,321	Active	Out-of-State MSW Landfill (Massachusetts)	Amsterdam - C Wastewater Treatment Plant	Mohawk River	C
Orange County Landfill	287,204	Inactive	Remediation Site	Beacon Water Pollution Control Plant	Hudson River	B
Hurley (Town) Landfill	265,314	Inactive	Remediation Site	Kingston WWTF	Rondout Creek	C
Monroe-Livingston Sanitary Landfill	180,700	Inactive	Remediation Site	Frank E Van Lare Wastewater Treatment	Lake Ontario	A
Yates Co. 2 SLF (Yates County Landfill)	146,200	Inactive	Remediation Site	Canandaigua - C WRRF	Canandaigua Feeder Outlet Canal	C
Evans Chemetics - Brewer Road Site	135,907	Inactive	Remediation Site	Auburn Sewage Treatment Plant	Owasco Lake Outlet	C
Claverack LF (T)	104,456	Inactive	Inactive Landfill	Hudson - C STP	Hudson River	A
St. Regis Paper	90,470	Inactive	Remediation Site	West Carthage	Black River	C

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
Company				Water Pollution Control Facility		
Royal Carting Service	83,200	Inactive	Remediation Site	Poughkeepsie STP	Hudson River	A
	3,200			Beacon Water Pollution Control Plant	Hudson River	B
Allegany County Phase III Closure (Cell 6&7)	72,098	Inactive	Inactive Landfill	V - Wellsville Wastewater Treatment Plant	Genesee River	C
SWDA Ogdensburg	41,200	Inactive	Inactive Landfill	Ogdensburg -C WWT Plant	Saint Lawrence River	A
Leray SLF (T)	34,940	Inactive	Inactive Landfill	West Carthage Water Pollution Control Facility	Black River	C
Sullivan County Landfill Phase I	22,380	Inactive	Inactive Landfill	Beacon Water Pollution Control Plant	Hudson River	B
Essex County Landfill	20,600	Inactive	Inactive Landfill	Plattsburgh Water Resource Recovery Facility	Saranac River	C
Glenville SLF (T)	16,400	Inactive	Inactive Landfill	Schenectady Water Resource Recovery Facility	Mohawk River	A
Lyndonville	9,240	Inactive	Remediation	North	Niagara	A-Special

Landfill Name	Average Annual Volume (gallons	Landfill Activity	Landfill Type	Receiving Sewage Treatment Plant	Receiving Water	Receiving Water Classification
-West Avenue			Site	Tonawanda STP	River	
Town of Saugerties Landfill	5,000	Inactive	Remediation Site	Glasco Wastewater Treatment Plant (Town of Saugerties)	Hudson River	A
Keystone Sanitary Landfill	1,260	Active	Out-of-State MSW Landfill (Pennsylvania)	Beacon Water Pollution Control Plant	Hudson River	B
Swoco SLF	720	Inactive	Inactive Landfill	Oneida County Water Pollution Control Plant	Mohawk River	C
Troy SLF (C)	200	Inactive	Inactive Landfill	Rensselaer County Sewer District 1 WWTP	Hudson River	C
NRG Huntley	Unknown	Active	Ash Landfill	Unknown	Unknown	Unknown
Total leachate volume disposed of annually, 2019-2023 (gallons)	**74,198,920**					

B. Inactive Landfills Must Be Required to Pretreat Leachate

New York currently maintains the Inactive Landfill Initiative to assess and clean up old, closed, or abandoned landfills that leach harmful contaminants into local groundwater and drinking water supplies. This program was created by DEC using funding from the 2017 Clean Water Infrastructure Act. The Clean Water Infrastructure Act of 2017 created Title 12 ("Mitigation and Remediation of Certain Solid Waste Sites and Drinking Water Contamination") in Article 27 of the Environmental Conservation Law. Title 12 grants DEC discretionary authority to conduct preliminary investigations of sites to assess ongoing or potential impacts on drinking water

sources and identify any necessary mitigation and remediation. Title 12 also allows DEC, DOH and individual solid waste site owners and operators to undertake mitigation and remediation of sites or areas deemed necessary for the protection of public drinking water supplies. Title 12 itself does not contain an explicit statutory prohibition against off-site leachate disposal at STPs.

While the Inactive Landfill Initiative is a critical tool, it relies on site-specific investigation and sampling to identify contamination, including impacts to drinking water wells, and is dependent on limited public grant funding. It therefore does not provide the mandatory, comprehensive regulatory oversight needed to ensure that leachate from inactive landfills is properly managed and treated. Inactive landfills equipped with leachate collection systems must be explicitly integrated into DEC's regulatory framework mandating the pretreatment of leachate. Without mandatory treatment standards, routine monitoring, and enforceable compliance requirements for these closed sites, untreated leachate will continue to pose an unmitigated threat to New York's water resources.

DEC previously stated in public meetings that inactive landfills do not require explicit regulation under this rule because a commercial market for off-site leachate treatment will naturally emerge, allowing smaller inactive facilities to contract with covered active sites.[14] This assumption is speculative, legally unenforceable, and economically unrealistic. It is unlikely that a specialized treatment facility would charge less than an STP, and as a result, inactive landfill operators will not choose a more-expensive option without a requirement to do so. DEC must establish direct regulatory responsibility for inactive landfills rather than relying on uncertain market expectations to address legacy contamination.

C. Eliminate the Proposed Exemption for Imminently Closing Landfills

DEC's proposed regulations create an unjustifiable exemption that allows facilities that plan to cease accepting waste within two years of the effective date to submit documentation of closure and bypass leachate treatment requirements entirely. An exemption based on imminent closure allows facilities to discharge millions of gallons of untreated leachate during their final operating years and post-closure phase without investing in necessary pretreatment infrastructure. We are already aware of at least one landfill that will be impacted by this exemption.

The Ontario County landfill discharges on average 22,800,000 gallons of leachate per year.[15] This facility collects its leachate and delivers it as hauled waste to multiple municipal wastewater treatment plants, including facilities in Canandaigua (Canandaigua Feeder Outlet Canal), Auburn (Owasco River), and Watertown (Black River). It is the eighth largest leachate contributor in the

[14] Webinars NYS DEC, *Landfill Leachate Rulemaking Stakeholder Meeting* (YouTube, Jan. 30, 2026), https://youtu.be/y8378RfZWaQ?si=JZT7lM6xvkE_2l8U&t=3841

[15] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, p. 8. The Ontario County landfill is one of 10 landfills in New York which dispose of more than 20 million gallons of leachate per year, as reported in 2026.

state.[16] This landfill is scheduled to permanently close on December 31, 2028.[17] Under DEC's proposed regulations, the Ontario County landfill would not be required to treat its leachate and would be permitted to continue to send untreated leachate to municipal STPs.[18] Interestingly, DEC identifies the Ontario County Sanitary Landfill as one of the 25 active MSW landfills it anticipates will be affected by this rulemaking.[19] However, the planned closure of this facility within two years will qualify it for the exemption proposed under Section 360.4(k)(9)(i). DEC must remove the provisions allowing landfills planning to close within two years to bypass leachate treatment requirements. Facilities closing in the near term must still be required to submit and implement long-term post-closure leachate management and treatment plans.

D. Prioritize Pretreatment at all Landfills Collecting Leachate

To fulfill DEC's statutory obligation to protect water quality and public health, the proposed draft regulations must be amended to mandate pretreatment for all landfills collecting leachate, including inactive facilities, landfill remediation sites, ash monofills, industrial landfills, out-of-state exporters disposing in New York, and facilities that utilize groundwater collection as a leachate control mechanism. Incorporating inactive municipal landfills and landfill remediation sites under this regulation will establish clear compliance mandates, thereby improving facility eligibility for state and federal water quality infrastructure grants, Clean Water State Revolving Funds (CWSRF), and remediation funding mechanisms.

III. Proposed Leachate Treatment Standards Must Enforce Science-Based Limits and Protect Human Health

While DEC seeks through this rulemaking to minimize the reintroduction of toxic contaminants into New York waters, the proposed rule falls short by omitting chemicals with current drinking water standards and failing to adopt health- or risk-based treatment requirements. DEC must revise Section 363-12.4 to ensure that leachate treatment is aligned with current drinking water and surface water quality standards and that it evolves to keep pace with future standards and treatment technologies.

A. Assure Treatment of All Contaminants with State or Federal Standards

To establish which contaminants would require treatment, DEC's proposed language in Section 363-12.4(f) references existing solid waste regulations in Table 3A and Table 3B of Section

[16] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, p. 8.
[17] The Ontario County Board of Supervisors voted to close the facility on December 5, 2025. *Exploring a Responsible Path Forward*, Ontario County New York https://oclandfillfuture.org/ (Accessed Aug. 21, 2026).
[18] In the five years we researched, the Ontario County Landfill sent leachate to Auburn (2019-2023), Canandaigua (2019-2023), Bird Island/Buffalo (2019-2023), Watertown (2019-2023), Bath (2019-2022), and Passaic Valley/NJ (2023).
[19] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Summary of Express Terms (Table 1, p. 10) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf

363-4.6(h). However, the list of contaminants identified in Tables 3A and 3B excludes at least two dozen parameters for which EPA and/or DOH have adopted drinking water maximum contaminant levels (MCLs).[20,21] These are:

Chemical Name	**Applicable Drinking Water Regulations**
Asbestos (fiber > 10 micrometers)	EPA & NYS
Fluoride	EPA & NYS
Nitrite (measured as Nitrogen)	EPA & NYS
Bromate	EPA & NYS
Chlorite	EPA & NYS
Alachlor	EPA & NYS
Atrazine	EPA & NYS
Carbofuran	EPA & NYS
Dalapon	EPA
Di(2-ethylhexyl) adipate	EPA
Diquat	EPA & NYS
Endothall	EPA
Glyphosate	EPA
Oxamyl (Vydate)	EPA
Picloram	EPA
Simazine	EPA & NYS
Alpha particles / Gross alpha activity	EPA & NYS
Beta particles and photon emitters	EPA
HFPO-DA (commonly known as GenX Chemicals)	EPA
Aldicarb	NYS
Aldicarb sulfone	NYS
Aldicarb sulfoxide	NYS
Methyl-tertiary-butyl-ether (MTBE)	NYS
Propylene glycol	NYS
Haloacetic acids	EPA & NYS

[20] *National Primary Drinking Water Regulations,* EPA (Dec. 1, 2025), https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations
[21] *See* NYCRR Title 10, § 5-1.52 https://www.health.ny.gov/regulations/nycrr/title_10/part_5/docs/subpart_5-1_tables.pdf

The absence of treatment requirements for these chemicals would allow the discharge of regulated contaminants to continue unabated, prolonging the public's and the environment's exposure to potential hazards if they are present in landfill leachate. The treatment requirements implemented under this rule must incorporate all parameters for which EPA, DOH and/or DEC have developed drinking water and/or surface water standards. This would close any gaps between the list of contaminants at Section 363-4.6(h) and other water quality protections.

B. Ensure That The Standard For Measuring Treatment Efficacy Is Truly Protective

DEC must also ensure that the standard for measuring treatment efficacy is truly protective. The proposed regulation specifies that leachate treatment efficacy will be measured according to percent removal of individual contaminants, with each contaminant to be removed to 99.9% of its pretreatment level.[22] DEC states that this requirement "is not based on achieving a human health or environmental risk assessment-based outcome. Instead, it is intended to function as an achievable and measurable criterion that facilities and the department can use to determine compliance with the regulation."[23]

DEC must revisit its treatment requirement. The 99.9% removal metric was arbitrarily selected and is not based on sound science. DEC has failed to offer any scientific justification to support its decision to require that the concentration of the contaminants in the leachate be reduced by at least 99.9% before discharge of the leachate treatment effluent. This could result in high-concentration effluent for contaminants with very high concentrations in raw leachate, even after meeting the percent removal target.

This is particularly problematic for persistent and bioaccumulative substances. Many of the chemicals slated for treatment are so listed because they are persistent and bioaccumulative, such that the discharge of even very small quantities over time has the potential to cause environmental and human harm.[24] Over two dozen chemicals, including PFAS, PCBs, and certain pesticides—all of which are present in leachate from New York State landfills[25]—have Maximum Contaminant Level Goals (MCLGs) of zero under the Safe Drinking Water Act (SDWA), indicating that there is no safe level of exposure.[26] Furthermore, leachate contains a chemical mixture, which can affect people and animals more severely than single chemicals acting alone. Instead of the 99.9% removal requirement, the regulation should require that

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[22] NYCRR § 363-4.6(i)(6); *see also* NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Regulatory Impact Statement (p. 12-13) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf

[23] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Regulatory Impact Statement (p. 8) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf

[24] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, p. 6. "Some synthetic chemicals break down extremely slowly and accumulate in living bodies, making concentration limits irrelevant." Even minute concentrations can be harmful.

[25] *See generally* NYRW. (Aug. 2026). *The Leachate Loophole in New York State*.

[26] *National Primary Drinking Water Regulations,* EPA (Dec. 1, 2025), https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations

contaminants be removed to levels below human and ecosystem health concerns, as expressed in DEC, DOH, or EPA surface water or drinking water standards.

C. Require Regular Review and Update of Treatment Standards and Methods

DEC's proposed regulation does not specify a required treatment technology. This is appropriate since the chemical composition of landfill leachate varies by landfill and over time, and the list of potentially present contaminants is diverse. In addition, locking in a technology recommendation would not allow for adaptation as research evolves.

To facilitate continual improvement, the regulations must mandate regular technical review and incorporation of the most protective health standards (including parameters and numerical limits) and treatment technologies. This will ensure that human health and the environment are protected to the fullest degree supported by available evidence and that treatment facilities are capable of achieving the best possible treatment results.

IV. PFAS Must Be Removed from Landfill Leachate to Protect Human Health

Landfills are a major source of PFAS, which contaminate drinking water under current leachate disposal practices. The treatment criteria proposed under Section 363-12.4 fail to adequately address the broad range of PFAS present in landfill leachate and the unique challenges involved in treating PFAS. DEC must revise Section 363-12.4 to ensure that treatment covers all PFAS detectable using EPA Method 1633 and that a mass balance approach is utilized to measure treatment efficacy as soon as standardized methods allow.

A. Links Between PFAS In Leachate and Drinking Water Exposure

PFAS are a class of persistent chemicals that are widely used in industrial, commercial, and consumer products. Because of their prevalence in commercial processes and consumer goods and extreme resistance to breakdown, PFAS are ubiquitous in landfills. EPA evaluated discharge data from over 200 landfills from across the country, and found PFAS present in the leachate at over 95 percent of the landfills.[27] EPA has inventoried over 21,000 PFAS substances,[28] but does not know how many of these compounds are actively being produced, or how many are present in landfills.[29] PFAS manufacturers continue to introduce new compounds each year.

[27] EPA. (Dec. 2024). *Preliminary Effluent Guidelines Program Plan 16*, p. 35.
[28] *PFAS□EPA: PFAS Structures in DSSTox (update January 2026)*, EPA (Oct. 2025), https://comptox.epa.gov/dashboard/chemical-lists/PFASSTRUCTV6
[29] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 73

Information about human health impacts is available for only a tiny fraction of PFAS,[30] and even less is known about ecological impacts. However, the available research shows that long-term PFAS exposure, even at very low concentrations, is linked to cancer, developmental delays, increased cholesterol, and impacts to the body's immune, reproductive, and endocrine systems.[31]

NYRW obtained results of PFAS testing for 26 samples taken from nine (9) landfills that disposed of leachate at New York STPs from 2019-2023.[32] PFAS were present in leachate from all nine (9) landfills. Analytical method information was available for 12 of the samples. Eleven samples were tested using EPA Method 537, which detects 21 PFAS compounds.[33] Individual samples contained an average of 14 PFAS compounds, ranging from 8-20 PFAS compounds per sample.[34] The total PFAS concentration per sample ranged from 1,723 to 77,823 ng/L, with an average of 12,982 ng/L.

These PFAS are transferred from landfills to drinking water sources via the disposal of leachate at STPs. From 2019-2023, roughly one-third of the landfill leachate disposed of at New York STPs went to STPs that discharge into waterbody segments that are designated as drinking water sources (i.e., Class A or Class A-Special).[35] Even more leachate was discharged upstream of drinking water source areas, or in waters that are likely to mix with drinking water sources. Thus, removing PFAS from landfill leachate is vital for protecting human and ecosystem health.

B. DEC Must Require Treatment of All PFAS Detectable Using EPA Method 1633

Because of the sheer number of PFAS and the diversity of factors that influence toxicity, it is neither economically feasible nor affordable to regulate PFAS on an individual-chemical basis.[36] Expert consensus warrants precaution towards all PFAS based on the known threats, and regulation of PFAS as a class.[37,38]

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[30] *Human and Ecological Health Effects of select PFAS*, ITRC (Jan. 2026), https://pfas-1.itrcweb.org/7-human-and-ecological-health-effects-of-select-pfas/

[31] *Our Current Understanding of the Human Health and Environmental Risks of PFAs*, EPA (July 14, 2026), https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas

[32] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, Appendix 1.

[33] A proprietary laboratory method that detected 44 PFAS compounds was used for the remaining sample.

[34] These summary statistics exclude one sample for which the landfill did not report the number of PFAS tested and only reported results for PFOA, PFOS, and total PFAS.

[35] NYRW. (Aug. 2026). *The Leachate Loophole in New York State*, Appendix 2.

[36] *Human and Ecological Health Effects of select PFAS*, ITRC (Jan. 2026), https://pfas-1.itrcweb.org/7-human-and-ecological-health-effects-of-select-pfas

[37] *Human and Ecological Health Effects of select PFAS*, ITRC (Jan. 2026), https://pfas-1.itrcweb.org/7-human-and-ecological-health-effects-of-select-pfas

[38] Sabba et al., *PFAS in landfill leachate: practical considerations for treatment and characterization,* Journal of Hazardous Materials (Jan. 5, 2025) https://doi.org/10.1016/j.jhazmat.2024.136685

PFAS are ubiquitous and highly concentrated in landfill leachate.[39,40] Precursor compounds and short-chain PFAS, defined below, tend to be prevalent in landfill leachate.[41,42,43,44,45] Precursor compounds are polyfluoroalkyl substances that are prone to transform into more stable, fully fluorinated forms known as perfluoroalkyl acids (PFAAs). These transformations are common in STPs, sometimes causing concentrations of monitored PFAAs in STP effluent to exceed those in influent.[46,47] The risk posed by discharge of precursor compounds into STPs is one of the major reasons that PFAS removal from landfill leachate is important. Thus, DEC's landfill leachate regulation must require treatment of precursor compounds.

Short-chain PFAS are those with less than eight carbon atoms (for perfluoroalkyl carboxylic acids, or PFCAs, the perfluorooctanoic acid (PFOA) family of compounds) or six carbon atoms (for perfluoroalkane sulfonic acids, or PFSAs, the perfluorooctanesulfonic acid (PFOS) family of compounds).[48] After major U.S. manufacturers voluntarily phased out production of selected PFAS in 2008, they shifted to manufacturing new forms of PFAS, including short-chain PFAS and precursor compounds.[49,50,51] The products containing these chemicals will be deposited in landfills as long as PFAS manufacturing continues, and these chemicals will continue to be present in leachate for decades.

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[39] Tolaymat et al., *A critical review of perfluoroalkyl and polyfluoroalkyl substances (PFAS) landfill disposal in the United States*, Science of the Total Environment (Sept. 19, 2023) https://pubmed.ncbi.nlm.nih.gov/37734620/
[40] Dasu et al., *Concentration profiles of per- and polyfluoroalkyl substances in major sources to the environment*, Journal of Environmental Management (Jan 1, 2022) https://pubmed.ncbi.nlm.nih.gov/34619593/
[41] Lang et al., *National estimate of per- and polyfluoroalkyl substance (PFAS) release to U.S. municipal landfill leachate*, Environmental Science & Technology (Jan. 20, 2017) https://pubmed.ncbi.nlm.nih.gov/28103667/
[42] Dasu et al., *Concentration profiles of per- and polyfluoroalkyl substances in major sources to the environment*., Journal of Environmental Management (Jan 1, 2022) https://pubmed.ncbi.nlm.nih.gov/34619593
[43] Coffin, E. S., Reeves, D. M., & Cassidy, D. P., *PFAS in municipal solid waste landfills: sources, leachate composition, chemical transformations, and future challenges*, Current Opinion in Environmental Science & Health (Feb. 2023) https://www.sciencedirect.com/science/article/abs/pii/S2468584422000939?via%3Dihub
[44] Li et al., *A critical review of the occurrence, fate and treatment of per- and polyfluoroalkyl substances (PFAS) in landfills*, Environmental Research (Feb. 1, 2023)
https://www.sciencedirect.com/science/article/abs/pii/S0013935122023076?via%3Dihub
[45] Sabba et al., *PFAS in landfill leachate: practical considerations for treatment and characterization*, Journal of Hazardous Materials (Jan. 5, 2025) https://doi.org/10.1016/j.jhazmat.2024.136685
[46] Heidler, J., & Halden, R. U., *Meta-analysis of mass balances examining chemical fate during wastewater treatment*, Environmental Science & Technology (July 22, 2008) https://doi.org/10.1021/es703008y
[47] Kim et al., *Occurrence, fate, and removal of per- and polyfluoroalkyl substances (PFAS) in small- and large-scale municipal wastewater treatment facilities in the United States*, Environmental Science & Technology Water (Nov. 15, 2024), https://doi.org/10.1021/acsestwater.4c0054
[48] ITRC. (2023). *PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1.* https://pfas-1.itrcweb.org/wp-content/uploads/2023/09/PFAS_figure_2-5_May2024.pdf
[49] *Chemistry, Terminology, and Acronyms*, ITRC (Jan. 2026)
https://pfas-1.itrcweb.org/2-2-chemistry-terminology-and-acronyms/
[50] O'Connor et al., *Distribution, transformation and remediation of poly- and per-fluoroalkyl substances (PFAS) in wastewater sources*, Process Safety and Environmental Protection (Apr. 2025)
https://doi.org/10.1016/j.psep.2022.06.002
[51] Li et al., *Short-chain per- and polyfluoroalkyl substances in aquatic ecosystems: occurrence, impacts and treatment*, Chemical Engineering Journal (Jan. 15, 2020) https://doi.org/10.1016/j.scitotenv.2022.153561

The proposed rule would require treatment of six PFAS chemicals from leachate: PFOA, PFOS, perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), perfluorobutanesulfonic acid (PFBS).[52] The six listed PFAS are all PFAAs. Four of the six regulated PFAS are long-chain compounds (PFOA, PFOS, PFNA, PFHxS) and two are short-chain compounds (PFHpA, PFBS).[53] Treatment of these six PFAS will cover only a portion of the PFAS present in landfill leachate. In the samples for which NYRW obtained information as described above, the six PFAS targeted by the proposed regulation made up 17-94% of the total PFAS detected in the samples, averaging 37% of the total PFAS concentration.[54] For example, PFHxA and 5:3 FTCA (a precursor PFAS) are not explicitly included despite being found to be the two most abundant PFAS in landfill leachate according to a nationwide study.[55]

DEC's approach to PFAS treatment in leachate lags behind what the situation demands. The ideal solution would be for DEC to require treatment of PFAS as a class, and this must remain the eventual goal. In the near-term, DEC must require treatment for the 40 PFAS detected using EPA Method 1633, the most comprehensive option currently available.

C. PFAS Removal Should Be Measured Using a Mass Balance Approach

The 99.9% removal metric that DEC has proposed would evaluate treatment efficacy by comparing the pre- and post-treatment concentrations of individual PFAS. However, percent reduction is not the best practice when it comes to measuring PFAS removal because it does not account for precursor transformations in liquids or transfer of PFAS to the air. Whether a compound transforms into another compound, volatilizes into air, or is actually removed by the treatment process, the outcome would be reflected as a decrease in the post-treatment concentration. Thus, PFAS transformations or losses can be misinterpreted as successful treatment when a percentage reduction is used to measure treatment efficacy.

In its Supporting Documents, DEC listed multiple technologies that the agency considered likely to be used in a leachate treatment system, for cost estimation.[56] These included reverse osmosis (RO), activated carbon, concentration and solidification of RO concentrate, and thermal oxidation on the concentrator vapor effluent.[57] In addition to these technologies, foam fractionation has received considerable attention from landfill operators seeking leachate

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[52] NYCRR § 363-12.4(f).
[53] ITRC. (2023). *PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1*, https://pfas-1.itrcweb.org/wp-content/uploads/2023/09/PFAS_figure_2-5_May2024.pdf.
[54] These summary statistics exclude one sample because the landfill did not report the number of PFAS tested and only reported results for PFOA, PFOS, and total PFAS.
[55] Lang et al., *National estimate of per- and polyfluoroalkyl substance (PFAS) release to U.S. municipal landfill leachate*, Environmental Science & Technology (Jan. 20, 2017) https://pubmed.ncbi.nlm.nih.gov/28103667/
[56] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Regulatory Impact Statement (p. 9) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf
[57] "For cost estimating, the department based its estimates on a treatment system using a multi-stage reverse osmosis (RO) system, with subsequent activated carbon on the RO permeate (clean stream), use of a concentrator on the RO concentrate stream, followed by solidification for the concentrate and treatment such as a thermal oxidizer on the concentrator vapor effluent."

treatment options. The company that operates Seneca Meadows landfill has proposed to install foam fractionation treatment as part of its application to expand the landfill.[58] Since 2020, Seneca Meadows landfill has used evaporation to concentrate increasingly large volumes of leachate, from approximately 223,000 gallons in 2020, up to 6,200,000 gallons in 2024.[59] Casella, which manages landfill leachate from five landfills in New York and is seeking permits to expand its Hyland (Allegany County) and Hakes (Steuben County) landfills, has installed foam fractionation treatment at a landfill in Vermont and is "looking to implement similar technology at other landfills."[60]

The risks of precursor transformation or transfer to air are relevant to the leachate treatment technologies mentioned above.[61,62,63,64,65] EPA's guidance on PFAS treatment and destruction indicates that foam fractionation, evaporation, and granular activated carbon treatments all pose risks of secondary contaminant release.[66] Therefore, DEC's use of a percent reduction as a treatment metric for a handful of PFAS compounds will not ensure PFAS removal.[67,68] Instead, a mass balance approach should be used.[69,70] This approach measures the total amount of organic fluorine (the chemical form present in PFAS) before and after the treatment process, in all outputs (gas, liquid, and solid). This approach can account for PFAS as a chemical class and ensure that PFAS is truly removed from leachate rather than transferred or transformed. The

[58] Seneca Meadows, Inc. (May 2025). *Draft Environmental Impact Statement, SMI Valley Infill Project*, p. 4-7.
[59] Seneca Meadows, Inc. *Land Clearing Debris Annual Reports*, Table 3-2. https://extapps.dec.ny.gov/fs/projects/SWMF/Annual%20Reports_Solid%20Waste%20Management%20Facility/Annual%20Reports_by%20Activity%20Type/Landfill/Landfill%20Annual%20Reports%20-%202020/R8/50S08_Seneca_Meadows_msw_R8_2020.2021-03-02.AR.pdf
[60] Megan Quinn, *Casella CEO Ned Coletta plans for the operational long game*, Waste Dive (June 15, 2026) https://www.wastedive.com/news/casella-ceo-coletta-acquisition-strategy-pfas-employee-safety/822894/
[61] Tang, Y., & Goukeh, M. N, *Fate of PFAS and other contaminants during leachate evaporation*, Hinkley Center for Solid and Hazardous Waste Management (Oct. 2023) . https://web1.eng.famu.fsu.edu/~ytang/leachate_evaporation.html
[62] Cerlanek et al., *Investigating the partitioning behavior of per- and polyfluoroalkyl substances (PFAS) during thermal landfill leachate evaporation,* Journal of Hazardous Materials (July 5, 2024) https://doi.org/10.1016/j.jhazmat.2024.134500
[63] Timshina et al., *Evaluating the potential of thermal evaporation for onsite retention of per- and polyfluoroalkyl substances (PFAS) in landfill leachate,* Waste Management (Sept. 10, 2026) https://doi.org/10.1016/j.wasman.2026.115734
[64] Smith et al., *Pilot-scale continuous foam fractionation for the removal of per- and polyfluoroalkyl substances (PFAS) from landfill leachate,* ACS ES&T Water (May 4, 2022) https://doi.org/10.1021/acsestwater.2c00032
[65] Smith et al., *Foam fractionation for removal of PFAS: towards closing the mass balance,* Science of the Total Environment (May 1, 2023) https://doi.org/10.1016/j.scitotenv.2023.162050
[66] EPA. (2026). *Technologies for the Destruction and Disposal of PFAS and PFAS-Containing Materials*, p. 87-88.
[67] Smith et al., *Foam fractionation for removal of PFAS: towards closing the mass balance,* Science of the Total Environment (May 1, 2023) https://doi.org/10.1016/j.scitotenv.2023.162050
[68] McCleaf, P., Kjellgren, Y., & Ahrens, L. *Foam fractionation removal of multiple per- and polyfluoroalkyl substances from landfill leachate,* AWWA Water Science (Sept. 12, 2021) https://doi.org/10.1002/aws2.1238
[69] Smith et al., *The need to include a fluorine mass balance in the development of effective technologies for PFAS destruction,* Environmental Science & Technology (Feb. 5, 2024) https://www.doi.org/10.1021/acs.est.3c10617iSiThl20245825872590
[70] Balasuriya et al., *The hidden fluorine: a critical review of analytical methods for unmasking PFAS and closing fluorine mass balance in environmental samples,* Analytical and Bioanalytical Chemistry (Apr. 5, 2026) https://doi.org/10.1007/s00216-026-06458-6

mass balance approach requires analytical methods that are not yet standardized by EPA. However, EPA proposed Method 1621, "Screening Method for the Determination of Adsorbable Organic Fluorine (AOF) in Aqueous Matrices by Combustion Ion Chromatography (CIC)," for approval in December 2024.[71] DEC's proposed regulation should incorporate concrete steps to transition leachate treatment standards to a mass balance approach once EPA Method 1621 and other methods for non-targeted analysis have been finalized.

V. The Regulations Concerning Leachate Treatment Facilities are Missing Critical Safeguards

DEC's creation of a new permit classification for stand-alone and dedicated landfill leachate treatment facilities under Subpart 363-12 represents a fundamental change in New York's waste and water management infrastructure landscape. Currently, facilities like the Steuben County leachate treatment plant operate without a tailored, comprehensive permitting status.[72] While establishing regulatory oversight for this class of infrastructure is essential, the proposed framework proposed under Section 363-12.3 fails to address critical issues regarding environmental justice, cumulative impacts, corporate accountability, and state-level long-term planning.

A. Impacts on Disadvantaged Communities

The proposed regulations are subject to the mandatory requirements of the New York State Environmental Justice Siting Law (ECL § 70-0118) and DEC Policy DEP-23-1 (Permitting and Environmental Justice). ECL § 70-0118 applies directly to permit decisions made pursuant to Title 7 of Article 27 of the Environmental Conservation Law.[73] Because 6 NYCRR Part 360 and Part 363 are promulgated under Title 7 of Article 27, any individual solid waste permit issued under Section 363-12.3 should fall squarely under this statutory mandate. Therefore, if a leachate treatment facility is proposed in, adjacent to, or impacting a designated Disadvantaged Community (DAC), the applicant must perform a comprehensive assessment evaluating existing health and environmental stressors. Under ECL § 70-0118, DEC cannot issue a permit for a new project if it determines that the project will cause or contribute more than a de minimis amount of pollution to a disproportionate pollution burden on a DAC.[74] DEC must ensure compliance with ECL § 70-0118 as it reviews and issues new permits for leachate treatment facilities.

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[71] EPA. (Apr. 2022). *Screening Method for the Determination of Adsorbable Organic Fluorine (AOF) in Aqueous Matrices by Combustion Ion Chromatography (CIC)*
https://www.regulations.gov/document/EPA-HQ-OW-2023-0469-0083

[72] The Steuben County leachate treatment facility is the only facility in New York State that treats leachate prior to disposal. The treatment process at the Steuben County Leachate Pre-Treatment Plant targets conventional leachate pollutants such as BOD, pH, total suspended solids, and metals. While the facility may remove some synthetic chemicals, it is not designed for that purpose. As a result, hazardous, manmade substances in leachate may pass through, untreated and unmonitored or become concentrated in sludge.

[73] N.Y. Envtl. Conserv. Law § 70-0118(1)(b)(v).

[74] N.Y. Envtl. Conserv. Law § 70-0118(3)(b).

B. DEC Must Conduct Adequate Statewide Planning to Manage Leachate Treatment Infrastructure

DEC has advised that it has confidence in economies of scale to make treatment of landfill leachate affordable. Relying on speculative market incentives for high-risk, toxic industrial waste management is an unacceptable approach to state environmental oversight. Landfill leachate presents a long-term water quality threat. Treating this waste stream requires public infrastructure planning.

DEC believes that because the regulations give landfills the option to treat leachate on-site or contract with an alternative landfill or other location to have leachate treated off-site, this could lead to the development of regional facilities that treat leachate from multiple landfills.[75] Regionalizing toxic waste treatment concentrates environmental risk in specific host communities. A regional leachate treatment facility will draw heavy tanker truck traffic from across the state or region, exacerbating local air quality, diesel emissions, noise, and road wear. DEC must amend Section 363-12.3 to mandate a regional cumulative impact assessment for any off-site or regional leachate treatment application. This assessment must evaluate transportation impacts, discharge receiving waterbody capacity, and compound industrial pollution loads on the surrounding host municipality.

In addition, the state should create a strategic master plan to provide recommendations to guide the location of these facilities to minimize impacts and ensure siting efficiency and appropriateness. This plan should project statewide or regional leachate generation trajectories over a 20- to 30-year horizon, evaluate regional capacity needs, and ensure that regional facilities do not proliferate haphazardly driven solely by private developer interests.

C. DEC Must Protect Taxpayers from the Costs of Legacy Pollution

The current rulemaking structure risks allowing waste management corporations to monetize the treatment of emerging contaminants while shifting long-term liabilities onto New York taxpayers and local host communities. A significant portion of the toxic burden in landfill leachate stems from products manufactured by chemical corporations. DEC should explore financial mechanisms, polluter liability frameworks, and extended producer responsibility concepts to ensure chemical manufacturers fund necessary treatment infrastructure rather than allowing waste management firms to turn leachate treatment into a high-margin revenue model. Subpart 363-12 must include strict, long-term financial assurance requirements for all leachate treatment facility permittees to ensure that state funds are not required to remediate or operate abandoned treatment infrastructure in the future.

[75] NYSDEC, 6 NYCRR Part 360 and Part 363: Treatment and Disposal of Landfill Leachate Regulatory Impact Statement (p. 9) https://dec.ny.gov/sites/default/files/2026-07/proposedpart360part363supportingdocs.pdf

VI. More Information on Disposal of Treatment Byproducts is Needed

Implementation of the proposed leachate treatment requirements will generate byproducts that contain highly concentrated and variable mixtures of toxic chemicals. DEC's proposed provisions for managing treatment byproducts fail to prevent secondary contaminant releases. DEC must revise Section 363-12.4 to include criteria and standards for leachate treatment byproduct disposal.

Section 360-2(b)(166) of the proposed regulation defines three outputs of the leachate treatment process:

- Concentrate is defined as "the waste stream from a leachate treatment process which contains higher concentrations of contaminants when compared to the concentration in the leachate."
- Residue is defined as "the resulting waste stream from a leachate or leachate treatment concentrate treatment process that meets the moisture content criteria of section 363-7.1(i) of this Title."
- Effluent is defined as "the material from a leachate treatment process which contains lower concentrations of contaminants when compared to the concentration in the leachate."

The regulation also contains provisions on how concentrate and residue (referred to here collectively as "leachate treatment byproducts") must be handled:

- Section 363-12.4(h) states that "[l]eachate treatment concentrate must be managed in a manner acceptable to the department."
- Section 363-12.4(i) states that "[l]eachate treatment residue must be sent to an approved landfill for use as alternative operating cover or disposal."

These provisions are excessively vague and fail to protect against secondary pollutant releases. Leachate is a complex mixture of chemicals that includes both volatile and non-volatile species. Leachate treatment byproducts contain the contaminant load removed from the landfill leachate, including PFAS, in a highly concentrated state. EPA guidance on disposal of PFAS-containing wastes illustrates some of the risks associated with the deposition of landfill leachate treatment byproducts in landfills, and highlights the need for more detailed guardrails on disposal of leachate treatment byproducts.

Since 2020, EPA has published and periodically updated guidance on PFAS treatment and destruction technologies, with the most recent update published in 2026.[76] EPA generally supports the placement of PFAS-containing waste in landfills. However, the agency explicitly

[76] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*.

states that landfill deposition of PFAS-containing waste is recommended as an interim measure until methods for PFAS destruction are further developed.[77] EPA notes that "it is unclear how effective [landfills] are at containment of water-soluble or volatile PFAS for an extended duration."[78]

EPA identifies multiple potential routes for PFAS release from landfills, including leachate and landfill gas (LFG). Volatile PFAS, such as fluorotelomer alcohols, readily partition into the gas phase and may escape from the landfill surface or be collected in LFG collection systems.[79] The mass of fluorine lost in LFG is comparable to the mass lost in landfill leachate.[80] Even where gas condensate collection systems are present, gas can migrate through the landfill surface and into groundwater.[81] LFG destruction systems may operate at temperatures that are too low to completely destroy PFAS, resulting in air releases.[82] In addition, while noting that landfill liners are generally effective, EPA notes that leachate leakage into groundwater "remains a concern."[83]

Landfill leachate and gas containment systems are precautions, not fail-safes. Due to the potential for PFAS to leak from landfills, EPA recommends a focus on minimizing releases where landfill deposition is practiced.[84] Accordingly, EPA recommends that landfills used for disposal of PFAS-containing waste should have liners, leachate collection systems, and LFG collection and control systems.[85] The agency recommends against the disposal of "media containing relatively high concentrations of soluble or volatile PFAS"—a description that likely includes leachate treatment byproducts—in MSW landfills.[86] EPA also recommends solidification/stabilization of PFAS-containing liquid waste to prevent migration of PFAS out of the landfill.[87] Some leachate treatment byproducts may be liquids. If DEC allows leachate treatment byproducts to be deposited in landfills, it must clearly set out minimum criteria for landfills eligible to accept leachate waste products and define acceptable methods and standards for landfills to stabilize leachate treatment byproducts.

EPA's guidance does not mention the use of PFAS-containing waste as alternative operating cover, but does mention that operating cover is one of multiple controls that influence a landfill's ability to contain PFAS by "reduc[ing] leachate generation, gas emissions, and direct exposure to humans and wildlife."[88] The multiple risks of PFAS release that are extensively enumerated in EPA's guidance, especially pertaining to LFG, clearly indicate that leachate treatment byproducts

[77] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 74.
[78] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 72.
[79] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 83.
[80] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 83, citing Lin et al. 2024.
[81] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 83.
[82] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 83.
[83] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 82, citing Robey et al. 2025.
[84] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 74.
[85] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 74.
[86] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 13.
[87] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 18.
[88] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 84.

are wholly unsuitable as alternative operating cover material. Use of leachate treatment byproducts as operating cover would promote release of gaseous PFAS, which will accumulate in the environment and impact communities downwind. DEC must not allow concentrate or residual to be used in this way.

As stated above, EPA recommends containment of PFAS-containing waste in landfills only as a stopgap due to the absence of proven technologies for safely destroying PFAS compounds. EPA's PFAS treatment and destruction guidance repeatedly emphasizes the need for research and pilot studies on nearly all aspects of PFAS-containing waste, and notes that its recommendations are rapidly evolving as new research is published. Reflecting this, EPA recently committed to updating its guidance annually, as opposed to every three years.[89] DEC's regulation must incorporate regular review of best practices to ensure that as long as containment is the selected strategy for managing leachate treatment byproducts, it is done in a way that minimizes risks of re-releasing contaminants into the environment. DEC must also periodically review emerging technologies, identify opportunities to transition toward destruction of leachate contaminants, and take steps to implement these new measures.

VII. DEC Must Prevent Out-of-State Waste Shifting

The proposed amendments to Section 363-7.1 create an unsupportable regulatory double standard regarding interstate transport and pretreatment of landfill leachate. While DEC's intent in this rulemaking is to minimize the re-introduction of toxic contaminants into New York State waters, the proposed rule undermines this goal by failing to establish strict, enforceable cross-border controls. DEC must revise Section 363-7.1(h) and related provisions to close these regulatory loopholes, uphold equal protection for New York waters, and prevent out-of-state waste shifting.

Under the proposed amendments to Section 363-7.1(h), "[l]eachate generated at landfills that accept MSW and at landfills that both accept C&D debris and have leachate collection systems: (1) may not be discharged or released directly to the environment in New York State or to a New York State Pollutant Discharge Elimination System permitted facility prior to meeting the treatment requirements specified in Subpart 363-12 of this Part." This language should capture out-of-state landfills that send their leachate to New York STPs. However, DEC has failed to identify at least three out-of-state landfills[90] in its list of 32 landfills it expects to be regulated.

While DEC cannot directly regulate physical landfill operations located outside New York's jurisdiction, DEC holds legal authority under Environmental Conservation Law (ECL) Article 17 and Article 27 to regulate waste entering the state and waste accepted by facilities operating under DEC permits (including state-issued SPDES permits). DEC must make it clear that all

[89] EPA. (2026). *Interim Guidance on PFAS Destruction and Disposal*, p. 1.
[90] These three landfills include: New England Waste (Vermont), Bourne (Massachusetts), and Keystone (Pennsylvania).

out-of state landfills, including active and inactive landfills that collect leachate, may not dispose of untreated leachate to a New York State SPDES-permitted facility, unless the sending facility demonstrates that the leachate has undergone pretreatment fully equivalent to the advanced removal standards mandated under Subpart 363-12. DEC should update its supporting documentation to include the three out-of-state landfills that have recently discharged leachate into New York STPs, and any others known to the department.

Comparatively, Section 363-7.1(h) allows New York landfills to export untreated leachate to out-of-state treatment or disposal facilities.[91] Allowing New York facilities to export untreated leachate to jurisdictions with weaker environmental protections or less stringent surface water discharge standards directly contradicts New York's leadership commitments under the Climate Leadership and Community Protection Act (CLCPA), general environmental stewardship, and environmental justice principles. New York must take full, long-term responsibility for the toxic legacy of its own municipal and industrial waste streams rather than exporting environmental burdens to neighboring states or overburdened out-of-state communities.

Allowing out-of-state export creates an easy "escape valve" which may disincentivize in-state landfills from investing in the necessary capital infrastructure required under Subpart 363-12, undercutting the state's efforts to establish a modern, resilient leachate treatment network. DEC should remove provisions allowing the export of raw, untreated leachate out-of-state, requiring instead that all leachate generated by regulated landfills in New York meet New York's advanced pretreatment requirements prior to off-site transport across state lines. In the alternative, for leachate treated in a facility located outside the jurisdiction of New York, DEC should require such facility to demonstrate that it has the technical capability to treat leachate.

VIII. DEC must Modernize and Expand the Recordkeeping and Reporting Requirements for Leachate Treatment Facilities

The recordkeeping and reporting provisions proposed under Section 363-12.4 rely on an outdated, passive regulatory model that fails to meet the oversight demands of modern chemical contamination. The current proposal focuses narrowly on basic operational compliance rather than providing the data required to evaluate real-time and long-term leachate treatment effectiveness. To ensure proper oversight of this new infrastructure class, DEC must modernize Section 363-12.4 by establishing a centralized digital reporting protocol, increasing reporting frequency and transparency, enforcing source-linked contaminant monitoring, and tracking treatment byproducts.

Relying on paper filings, delayed PDF submissions, or decentralized recordkeeping severely limits DEC's ability to conduct proactive regional oversight and deprives host communities of meaningful information regarding toxic waste discharges in their watersheds. DEC must

[91] Proposed 6 NYCRR Section 7.1(h)(2)(ii).

establish and mandate a standardized, electronic reporting platform for all facilities permitted under Subpart 363-12. Data submitted under Section 363-12.4 should be uploaded to a publicly searchable online portal, such as the DECInfo Locator. This would allow host communities, downstream drinking water utilities, and independent researchers direct access to monitoring results without requiring formal Freedom of Information Law (FOIL) requests.

Annual reporting is fundamentally insufficient for managing dynamic waste streams like landfill leachate. Contaminant concentrations can fluctuate dramatically based on seasonal precipitation, landfill capping status, and waste composition changes. The annual reporting requirements set forth in Section 360.19(k)(3) leave STPs and receiving waters vulnerable to undetected pollutant spikes or treatment failures for months before DEC staff can identify a pattern of non-compliance. Leachate treatment facilities should be required to submit monitoring data quarterly at a minimum, with electronic laboratory results uploaded within 30 days of sample collection. Crucially, any exceedance of permitted discharge indicators or pretreatment thresholds must trigger immediate electronic notification to DEC.

To evaluate true treatment efficiency, DEC must require routine, side-by-side reporting of untreated leachate (influent) alongside treated leachate (effluent), including full numerical concentration data and volumetric flow rates for all monitored chemicals. Simple summary statements of compliance are unacceptable. Furthermore, regulations must track treatment byproducts, such as concentrated liquid reject streams and sludge, to ensure emerging contaminants like PFAS are not merely transferred from effluent to solid waste streams without safe disposal verification.

Finally, DEC should bridge the oversight gap between source landfills and treatment facilities. Section 363-12.4 must require leachate treatment facilities to maintain and report source-linked contaminant profiles for each sending facility. Concurrently, source landfills should be mandated to track and report the nature and quantity of leachate being sent to the leachate treatment facility, and describe any measures taken to minimize future leaching. Linking contaminant profiles back to individual origin landfills will enable DEC to identify "hotspot" landfills that generate disproportionately toxic leachate and potentially require targeted source control measures at the point of generation. The existing regulations require the leachate treatment facility to identify the landfill and volume received from such landfill in its reporting, but does not require contaminant data to be linked to each source landfill. This is a gap that must be addressed.

DEC’s regulations should include recordkeeping and reporting provisions that provide sufficient information to evaluate the effectiveness of treatment technologies, identify trends in contaminant concentrations, and assess the cumulative impacts of landfill leachate on receiving waters. These changes are essential to ensure the long-term success of leachate treatment infrastructure and protect New York's waters.

IX. Permits Issued Under the Proposed Regulation Should Be Subject to Full Technical Review When Reaching Expiration

For many years, DEC has struggled to conduct timely reviews of various types of permits, resulting in them being either administratively extended based on pending applications under the State Administrative Procedures Act, or administratively renewed under DEC's applicable permitting regulation, such as in the SPDES context. In that context, the legislature put in place the Environmental Benefit Permitting Strategy (EBPS), requiring DEC to prioritize SPDES facilities for full technical review based on a series of factors that DEC scores annually.[92] However, even under EBPS, DEC has struggled to conduct full technical reviews to clear the backlog.[93]

Given the dangerous and complex nature of landfill leachate, it is critical that permits issued under the proposed regulations do not fall into the same pattern of administrative renewal or extension. This is particularly important here given that our understanding of PFAS, and the best practices for monitoring, testing, treatment and destruction are all rapidly evolving.[94,95] Therefore, permits issued under the proposed regulation should continuously reflect the most up-to- date regulatory requirements, analytical methods, and scientific literature.

Additionally, given that it will take several years to implement the proposed regulation to the point that landfill leachate will be treated onsite, in the interim DEC should prioritize full technical reviews for all SPDES permitted facilities that receive untreated leachate. This could be accomplished through updating the EBPS scoring mechanism to include a significant factor for permittees receiving untreated leachate.

X. Long-Term Vision

While this regulation takes steps to mitigate pollution from landfill leachate, it must be undertaken as part of broader, long-term efforts to eliminate toxic chemicals from circulation. This includes "end-of-pipe" controls such as landfill leachate treatment as well as "upstream" measures at the chemical manufacturing stage. Leachate treatment must move toward approaches that destroy or permanently eliminate toxic chemicals—not simply capture and relocate them. New York must also advance policies that eliminate the production and use of harmful chemicals that ultimately become landfill waste. Lastly, DEC should explore strategies to ensure that polluters, rather than municipal taxpayers or local communities, bear the financial burden for

[92] *See* N.Y. ECL § 17-0817(4).
[93] The 2026 EBPS ranking list appears to include 1594 permits statewide as pending review. *See* NYSDEC. (Apr. 2026). *EBPS Ranked List* https://dec.ny.gov/sites/default/files/2026-04/spdes_ebps_rankedlist.pdf
[94] Sabba et al., *PFAS in landfill leachate: practical considerations for treatment and characterization*, Journal of Hazardous Materials (Jan. 5, 2025) https://doi.org/10.1016/j.jhazmat.2024.136685
[95] *See* EPA. (2026). *Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances—2026 Version*.

leachate treatment. DEC should work with community-based groups and other experts to define steps toward these goals, and publicly share its action plan.

Until contaminant destruction technology is implementable, DEC must ensure that leachate treatment systems continuously improve based on emerging research. DEC must also ensure that leachate treatment byproduct disposal practices follow the most current best practices. DEC can support this work by leveraging EPA's PFAS disposal and destruction research agenda for technical and financial support. EPA has prioritized landfills and emerging destruction technologies as research areas, including bench-scale and pilot studies of emerging destruction technologies.[96] DEC should partner with EPA and academic institutions to conduct further investigation into methods for large-scale PFAS destruction, report findings publicly, and apply them to treatment systems and future regulatory updates. Information gained from research focused on PFAS can benefit leachate treatment in general.

XI. Conclusion

We appreciate the opportunity to comment on the proposed amendments to 6 NYCRR Part 360 and 363 concerning the treatment and disposal of landfill leachate. We recognize the profound complexity of managing landfill leachate and understand there is no single, instant solution. However, this rulemaking is a crucial moment for New York to take bold action. By strengthening these regulations to address the concerns raised above, DEC can set our state on a firm proactive path toward permanently eliminating hazardous waste chemicals from circulation and protecting our waters for generations to come.

If you have any questions, please do not hesitate to contact Jen Epstein at rhithron@gmail.com.

Sincerely,

[96] EPA. (2026). *Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances—2026 Version*, p. 116.

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