



Comments on the Final New York State Hazardous Waste Siting Plan

Comments by Citizens Campaign for the Environment (CCE)

BACKGROUND

Chapter 618 of the New York Laws of 1987 mandates that the NYS Department of Environmental Conservation (DEC) develop a New York State Hazardous Waste Siting Plan (“Plan”) to guide the siting of hazardous waste management facilities. In 2005, the NYS Legislature passed a law that declares that any new or pending application for a new or expanded facility shall not be deemed complete until the Plan is complete, thus preventing the DEC from acting on any permit applications until the Plan is complete.

The DEC released the final Plan to the public on October 6, 2010, although the DEC must wait at least ten days before officially adopting the final Plan. The final plan comes after two draft plans were released for public comment and review.

CCE COMMENTS

CCE offers the following comments on key components of the final Plan:

Need for new or expanded hazardous waste management facilities in NYS

- A principal finding in the Plan is that there is *no need* for new or expanded hazardous waste management facilities in New York State (6-9). ***CCE strongly agrees.*** EPA estimates that there is sufficient national capacity for hazardous waste through at least 2034, thus making any new or expanded facilities in NYS unnecessary.

Guidance for Siting Boards

- While the Plan does not analyze the impact of new or expanded facilities on equitable distribution because there is no need, the Plan does provide some additional discretion for a siting board to determine equitable distribution in the future. The Plan states that “the Facility Siting Board may use as a guidance the criteria employed in the Plan to determine equitable distribution, but is not limited by this criteria. (9-4)” The Plan cites history of facility operations and closed hazardous waste landfills as examples of other information that *may* be considered as criteria in determining equitable distribution. ***CCE supports providing the Siting Board with the discretion to consider additional***

criteria when determining equitable distribution, including closed hazardous waste landfills.

- While the Plan determines that there is no need for new or expanded hazardous waste management capacity in NYS, it does provide the Siting Board with discretion to approve the application for a new or expanded facility if it is “otherwise necessary” or “in the public interest”. While CCE remains concerned with providing exceptions that could lead to unnecessary hazardous waste management facilities, we do support additional criteria in determining if a facility is “in the public interest” that was included in the Plan. Specifically, the final Plan now provides criteria for environmental and public health concerns when determining if a facility would be in the public interest (9-6).

Equitable Distribution.

- CCE strongly disagrees with the Plan’s assertion that the distribution of all industrial hazardous waste facilities is equitably distributed. The Town of Porter, surrounding communities, and the surrounding natural resource of the Great Lakes are unduly burdened with the only active hazardous waste landfill in the state, which has been in operation for nearly 40 years. To say that it is equitable to have a single landfill, which is the least preferential method of managing hazardous waste according to state law; receives a greater volume of dangerous toxic waste than any other area of the state; and threatens to contaminate the Great Lakes, which contains 95% of the freshwater in the US; in one small part of the state, is unfair and cannot be considered equitable. ***CCE recommends that equitable distribution determination consider type and size of the facility. Hence, CCE recommends that the Plan indicate that there is NOT equitable distribution in the state, as Niagara County bears a disproportionate burden.***

Citizens Campaign for the Environment (CCE) is an 80,000 member, non-profit, non-partisan advocacy organization that empowers communities and advocates solutions to protect public health and the natural environment in New York State and Connecticut. For 25 years, CCE has worked to advance environmental policies and actions based on a philosophy of pollution prevention, conservation, and environmental stewardship.

For more information, contact Brian Smith, WNY Program Director, at bsmith@citizenscampaign.org or (716) 831-3206