

New York State Department of Environmental Conservation

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Alexander B. Grannis
Commissioner

MAY 27 2008

Mr. Kenneth G. Gallagher
Principal Planner
Clough, Harbour and Associates, LLP
III Winners Circle
P.O. Box 5269
Albany, New York 12205-0269

Dear Mr. Gallagher:

The New York State Department of Environmental Conservation (Department) has reviewed the document entitled, "DRAFT Solid Waste Management Plan Modification for the Capital Region Waste Partnership Planning Unit - May 2008" (Modification), submitted by the City of Albany (City) on behalf of the ANSWERS Planning Unit, as required by 6 NYCRR subdivision 360-15.11(b). This document was received for review by the Department on May 9, 2008.

There are a number of matters in which this Draft Modification is deficient and, therefore, can not be approved at this time. Most significantly, the document does not define a clear path for the City to phase out landfilling in the Pine Bush and it does not detail plans for reducing waste, increasing recycling, and pursuing expansion of organics recovery. The Planning Unit is required under 6 NYCRR Subpart 360-15 regulations to revise the Draft Modification addressing, in full, the Department's comments, and resubmit a Revised Draft Modification for review within 60 days of the date of receipt of this letter.

The matters in which the Modification is deficient are outlined in detail in an enclosure to this letter. Please address these comments in a Revised Draft Modification document. In order to assist the completion of the Revised Draft Modification, Department staff have offered information or suggestions, where appropriate, for consideration. Comments that you receive from the member municipalities of the Planning Unit should also be addressed in the Revised Draft Modification.

Understanding that the sixty day time frame for revisions is inconsistent with your schedule for meeting permitting requirements. The Department is prepared to meet with you at your convenience to discuss these matters, to answer questions and otherwise explain necessary modifications to allow for the quickest possible response. We look forward to your reply and to continuing to work with you on this important effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin E. Dassatti". The signature is written in a cursive style with a large, stylized initial "E".

Edwin E. Dassatti, P.E.

Director

Division of Solid & Hazardous Materials

Enclosure

cc: N. D'Antonio, Commissioner, Albany Dept. of General Services
W. Bruce, Albany Local Development Corporation
R. Leistensnider, Nixon, Peabody
F. LaVardera, Clough, Harbour and Associates, LLP

Attachment
Comments on the First Draft of the
DRAFT Solid Waste Management Plan Modification
of the ANSWERS/Capital Region Waste Partnership Planning Unit
5/23/08

General Comment

Overall, the Draft Solid Waste Management Plan Modification (Modification) was found to be lacking adequate support and detail for its many discussions, conclusions and recommendations. It lacks specific milestones, deliverables, and timetables for most proposed actions. It delays decisions about a long term disposal solution and other waste management practices until after 2011. As such, it is of limited scope, and should be significantly enhanced consistent with the specific comments listed below.

Specific Comments

These review comments are provided in the order they were identified in the 1st Draft of the LSWMP modification and are not in order of significance.

1.0 Introduction and Background - Page 1

1. Our records indicate that LSWMP Compliance Reports were received in 1997, 1999, 2003, 2005 and 2007. The paragraph on Page 1 indicating that the City prepares Compliance Reports every two years should to be changed to accurately reflect the actual years of compliance report submission.

2.0 Solid Waste Management Plan Modification

2.2 Reasons for the Modification - Page 2 - 3

2. In Section 2.2 on page 3, the changes in planning unit member municipalities should be identified as an item for modification as well. The original Plan included the Town of Coeymans, City of Cohoes and the City of Schenectady as member municipalities. These municipalities no longer appear to be members of the planning unit. This Modification should identify these changes and identify the planning unit these municipalities are now a member of, or describe how they are currently meeting their solid waste management needs. Additionally, any municipalities that have since joined the planning unit such as East Greenbush and North Greenbush, who have both been mentioned as potential

members of the planning unit in discussions with the City of Albany (City), should be identified in the Modification along with an identification of the planning unit from which these municipalities were formerly members. It would be appropriate to add a specific discussion related to the former and current members of the planning unit.

2.3 Revised Implementation Schedule

2.3.1 SWMP Milestones - Page 3

3. It is stated in the Leaf and Yard Waste Program discussion in Section 2.3.1 that “The four most rural towns in the Planning Unit have only limited yard waste management programs, but this is acceptable because it is expected that most of the residents of these towns will manage their yard waste on their own property.” In Attachment 1 it is also identified that in two of those four Towns, they also burn yard waste received in addition to the likely management by residents. A program should be outlined that will verify how yard waste is currently being managed in these Towns, encourage backyard composting for that portion that is managed on-site by residents/generators, discourage burning of yard waste received and to encourage composting of this material either within the Towns or at another member municipalities yard waste composting facility as is noted as a practice of the Town of New Scotland.

Continuation of commercial sector recycling planning - Page 4

4. It is stated in the Commercial Sector Recycling Planning discussion in Section 2.3.1 on page 4 that “All ANSWERS municipalities have mandatory recycling ordinances for residential and commercial, industrial and institutional sectors.” As identified in Table 1 of the Draft LSWMP Modification and in comments previously provided to the City, not all municipalities within the planning unit have local source separation laws or ordinances that clearly include non-residential generators or are otherwise inconsistent with the requirements of Section 120-aa of the New York State General Municipal Law (GML-120-aa). Statements such as these need to be corrected to reflect the current noncompliant status of several member municipalities and steps must be included that detail the plans for the resolution of their noncompliant status.

Table 1 indicates that at least 5 member municipalities [Rensselaer (C), Berne (T), Knox (T), New Scotland (T), Voorheesville (V)] laws or ordinances are not compliant with the requirements of GML-120-aa. The Department’s files indicates that Berne (T), Coeymans (T), New Scotland (T), Voorheesville (V), Rensselaerville (T), Westerlo (T), Watervliet (C) and East Greenbush (T) do not have laws or ordinances consistent with the requirements of GML 120-aa and we do not have a copy of Green Island’s (V)(T) local recycling law. This obvious noncompliance is a significant concern for the Department

and must be rectified. The status of these laws must be clarified in this Modification. Copies of the most recent laws or ordinances should be provided to the Department immediately for review and comparison with our file copies and should also be included in this Modification.

5. The Commercial Sector Recycling Planning discussion in Section 2.3.1 on pages 4 & 5 needs to be enhanced to completely describe the efforts that are proposed to be undertaken by the City and all member municipalities to enhance recyclables recovery efforts in the commercial sector. The implementation schedule should include specific milestones, deliverables and timetables.
6. Over the past year, the Planning Unit has expressed a renewed interest in efforts to engage the commercial sector in recycling. There should be more specific details about how to accomplish this objective in the Modification. The brief statement that the Planning Unit will "take a more active role" without any specifics is incomplete.

Develop and implement a Materials Recovery Facility (MRF) project - Page 5

7. The Modification includes a discussion of the 1997 RFP for Materials Recovery Facility development, but does not include the final outcome of the RFP process. The outcome and decisions around this process should be included in this Modification.
8. The Modification briefly mentions that "area processors" are currently used in lieu of a MRF. The names of these processors that are integral to the recycling program infrastructure should be identified, along with their location addresses, in the Modification, or in an attachment thereto.

Household Hazardous Waste

9. The discussion about availability of HHW collection on page 5, and the information in Attachment 1 should include all Planning Unit members and the steps necessary to ensure that all residents of the Planning Unit have access to safe and effective HHW collection, to the extent it was envisioned in the original SWMP.

Continuation of the waste to energy facility or incinerator

10. The Department acknowledges that the facilities mentioned in this section were closed in 1994 and 1996. The text of this section of page 5 provides an estimate of the need to manage 100,000 tons per year of materials previously handled as RDF. This text should be revised to indicate that improved recycling is an option for the displaced waste in

addition to landfilling.

11. The net effect of closure of the Sheridan Avenue incinerator and Rapp Road shredding facility has been the accelerated depletion of landfill capacity. Efforts that the Planning Unit has undertaken to consider the alternative solid waste management strategy of waste to energy should be described along with the outcome of that consideration.

Continued use of the Rapp Road SWMF landfill to maximum capacity - Pages 5 & 6

12. The following are comments related to statements in the section entitled: Continued Use of the Rapp Road Landfill to Maximum Capacity discussion in Section 2.3.1 on page 6:
 - a. In the first paragraph on page 6, it is stated that "As part of the SWMP Modification, the Eastern Expansion of the Rapp Road landfill is expected to provide an additional 2,925,000 cubic yards of airspace, and it is the City's position that the Eastern Expansion is consistent with the existing SWMP." The Department does not consider continued expansions of the landfill beyond the identified permitted capacity within the original SWMP, to be consistent with the original SWMP. Any proposed expansions beyond what was originally specifically identified in the original SWMP are considered to be modifications to the original SWMP and should be characterized as such in this Modification. All references such as this in this Modification should be revised accordingly.
 - b. In the second paragraph on page 6, it is indicated that the discussion on page 6 is based on the Draft Supplemental Environmental Impact Statement for the Eastern Expansion. As such, much of the data appears to be dated. Examples include the existence of available transfer station and disposal capacity and the tipping fees available at potential landfills both within and outside of New York State. These may have a significant impact on the costs calculations and projections provided. The most recent data should be used for this Modification. References should be provided for all cost calculations.
 - c. In the third paragraph on page 6, it is stated that "It is worth noting that there is a shortage of available disposal capacity in New York State..." This statement may have been true in a previous time, but it is not correct. Many landfill operators in New York State are reporting acceptance rates well below their current limits. Imports from out-of-state to New York State landfills exceed one million tons per year, which further clarifies that landfill capacity is not lacking in New York State.
 - d. Regarding the third and fourth paragraphs on page 6, discussing waste export costs, these numbers require more specific detail and support.

- e. In the last paragraph on page 6, in describing the waste exportation alternative, it is stated that "This is not an acceptable short term alternative". This quoted statement is not appropriate in this document and should be removed. The short term export of waste is, and has always been, the only viable short term alternative for the City and the member municipalities if the Eastern Expansion is not approved. The costs related to this alternative can and should be evaluated in this Modification; however, all applicable portions of the Modification should be revised to reflect export of waste as the short term alternative if the Eastern Expansion is not approved or constructed before capacity in the currently permitted landfill is exhausted.
- f. The Modification should consider the possibility of assessing and reducing the disposal of solid waste generated outside the planning unit in order to reduce reliance on the Rapp Road Landfill and more easily transition to the possible eventuality of utilizing a facility other than the Rapp Road Landfill.
- g. The Modification interprets the term "fullest capacity" to mean all property not dedicated to the Pine Bush Preserve. It should be clarified as to whether or not the Planning Unit intends to pursue additional expansions beyond the proposed "Eastern Expansion."

Adoption of local laws or ordinances by September 1, 1992...

- 13. It is indicated in the Adoption of Local Laws or Ordinances discussion in Section 2.3.1 on page 7 that all ANSWERS communities have passed laws or ordinances for mandatory source separation of recyclables for all generating sectors. As discussed in comment 4, that is not the case. This section needs to be revised and enhanced to describe the current status of the local laws and ordinances and the plans for bringing all municipalities into compliance with the requirements of GML 120-aa.

Continue recycling program with a minimum of 40% recycling

- 14. In Section 2.3.1 on page 7, there is a discussion titled "Continue recycling program with the goal of achieving a minimum of 40% recycling". This heading is deceptive and should be revised as the combined planning unit waste reduction and recycling goal for all waste generated within the planning unit in the original SWMP (Table 4-26) was 58% by 1997 continuing at that rate through 2008. Subtracting waste streams such as discarded cars, power plant ash, offal, oil soaked dirt, C&D, WWTP sludge and cement kiln dust from that universe of waste, the original combined goal for waste reduction and recycling in the SWMP (Table 4-27) was 51% in 1997 through 2008 with a recycling only goal for these components of 47% in these same years. The combined waste reduction and recycling

goal for the solid waste managed by the planning unit was 62% in the original SWMP (Table 4-29) for the same time period.

15. Within the Continued Recycling Program discussion in Section 2.3.1 on page 7, the diversion rates identified are 32 % for 2005 and 36% for 2006 and are noted as not including “most residential and CII sector recycling serviced by the commercial haulers or for the recycling and/or re-use of C&D Debris.” It should also be noted in this section that the diversion rates calculated in Attachment 3, not including yard waste, were 17% in 2005 and 15 % in 2006. We have a number of concerns related to these rates which will require re-evaluation, clarification and adjustment. These include:
 - a. The yard waste totals reported for both 2005 & 2006 for Albany (C), Bethlehem (T), Guilderland (T), and Green Island(V)(T) need to be reviewed again to ensure the data provided is accurate and included in the calculations in an appropriate manner.
 - i. For the City of Albany, a significant quantity (approximately 40%) of the material listed is noted as “other yard waste delivered to Albany compost facility from sources other than DGS”. These other sources of materials should be identified. If municipal, the quantities should be identified and included in the appropriate municipality’s calculations. If non-municipal, the source, amount, and generation location if outside of Albany (C) should be identified. If, as stated above, most residential and CII sector recycling serviced by commercial haulers is not included in these calculations, the inclusion of a large quantity of non-residential recycled material into the calculation without accounting for the non-recycled materials from that same generating sector could significantly skew the reported recovery/diversion calculation.
 - ii. For Guilderland (T), the quantity of yard waste reported for 2005 increased significantly from the quantity reported in the compliance report. The quantity of material seems somewhat high for a municipality of this size. It was indicated in Attachment 1 that the Town of New Scotland transports yard waste to the processing facilities in Guilderland and Bethlehem. The sources of materials managed at the facility should be identified. If municipal, such as for the Town of New Scotland, the quantities should be identified and included in the appropriate municipality’s calculations. If non-municipal, the source, amount, and generation location if outside of Guilderland (T) should be identified. As was the case in the Albany (C) comment, the inclusion of a large quantity of non-residential recycled material into the calculation without accounting for the non-recycled materials from that same generating sector could significantly skew the reported recovery/diversion calculation.

- iii. For Bethlehem (T), the reported quantity of yard waste is unusually high for a community this size. Bethlehem is similar in size to Guilderland yet it is reported that it handles nearly three times as much material and we have concerns with the quantity of material reported by Guilderland for purposes of recovery/diversion rate calculations. The quantity reported requires further evaluation and refinement to determine if there is some other factor that is not readily apparent for such a high quantity. Attachment 1 indicates that Bethlehem collects 1,390 cubic yards of wood chips. This seems somewhat unusual and requires more evaluation. This may be one of the contributing factors for an elevated quantity. Additionally, as was the case with Guilderland (T), it was indicated in Attachment 1 that the Town of New Scotland transports yard waste to the processing facilities in Bethlehem and Guilderland. The sources of materials managed at the facility should be identified. If municipal, such as for the Town of New Scotland, the quantities should be identified and included in the appropriate municipality's calculations. If non-municipal, the source, amount, and generation location if outside of Bethlehem (T) should be identified. As was the case in the Albany (C) and Guilderland(T) comments, the inclusion of a large quantity of non-residential recycled material into the calculation without accounting for the non-recycled materials from that same generating sector could significantly skew the reported recovery/diversion calculation.
- iv. For Green Island (T)(V), the reported quantity of yard waste appears to be low for a community that collects yard waste weekly and allows for drop off of yard waste in the spring. The quantities reported should be reevaluated.
- b. In the 2005 calculations, 258 tons of C&D are included in the calculations for New Scotland (T). This is inconsistent with the statement noted above that C&D material was not included in these calculations. Additionally, the information provided in Attachment 1 for the Town of New Scotland only states that C&D was transported from the Town's drop off center to a transfer facility, not recycled. As was discussed in the yard waste comments above, the inclusion of a recycled material into the calculation without accounting for the non-recycled materials from that same generating sector could skew the reported recovery/diversion calculation.
- c. Calculations for all current member municipalities should be included in the planning unit recovery/diversion calculation. That includes member municipalities that have been added to the planning unit such as East Greenbush which was identified elsewhere in the Modification.

2.3.2 Implementation Obstacles

16. In the first paragraph of Section 2.3.2 on page 8, it is stated that "The inability to achieve projected diversion rates can most easily be attributed to the decline in market value of the reclaimed materials." This statement is not supported by the market conditions for recovered materials during the term of the LSWMP or the present and should be removed.
17. The second paragraph of Section 2.3.2 on page 8 includes a discussion of the proposed Inter-Municipal Agreement (IMA) between the City of Albany and member municipalities which will provide for a Planning Unit-wide Recycling Coordinator. This concept is strongly supported by the Department. In addition, it is suggested that this IMA document also include the goals, programs and efforts to be undertaken by the Planning Unit for solid waste management along with membership and active participation commitments from all member municipalities.
18. The third paragraph of Section 2.3.2 on page 8 states "No change to the current administrative structure of the planning unit is proposed as part of this SWMP Modification." This statement is not reflective of the changes that have occurred in municipality membership and the proposed establishment of the IMA and a Planning Unit-wide Recycling Coordinator position. Additionally, more steps should be taken in the short term while the new SWMP is being developed to better coordinate the solid waste management efforts of the planning unit. The limited cooperation from member municipalities with the development of the Draft Modification as the latest planning effort is evidence that changes in the administrative structure is necessary. An enhanced discussion of efforts that will be undertaken to develop a more coordinated and cohesive structure of member municipalities should be outlined in the Modification.

2.3.3 SWMP Deviations

19. Generally, this section contains significant statements that are not "deviations" from the original SWMP and is better placed in other sections of this Modification. Some of the bulleted items on pages 9-11 in this section are not deviations from the original SWMP, but rather new information or planned actions. This section needs to be re-organized for improved clarity, while incorporating the specific comments below.
20. In the second paragraph of the bullet in Section 2.3.3 on page 9, it is stated that "Although all ANSWERS municipalities have ordinances requiring the CII sector to recycle, the ANSWERS Planning Unit has few resources to provide either education or enforcement."

- a. As discussed in comments 4 & 13, all member municipalities do not have laws or ordinances that require the source separation of recyclables for all generating sectors. This section needs to be revised and enhanced to describe the current status of the local laws and ordinances and the plans for bringing all municipalities into compliance with the requirements of GML 120-aa. Compliance with GML 120-aa was required as of September 1, 1992. Any continued non-compliance cannot be agreed to or approved by the Department.
 - b. The portion of the statement regarding "few resources" is misleading and should be revised or eliminated. While ANSWERS as an entity was never granted Authority status, nothing prohibited the establishment of Planning Unit-wide positions to administer the LSWMP and programs outlined in the original LSWMP as is currently being proposed through the IMA for the Planning Unit Recycling Coordinator. That was a choice by the member municipalities. Even absent any formal Planning Unit wide positions and resources, each member municipality had the power and responsibility to develop programs and laws consistent with the requirements of GML 120-aa and to carry out and enforce those laws and programs. This section should be revised accordingly.
 - c. Moreover, landfill tipping fees alone generate revenue of \$10 million - \$15 million per year. Hauler licensing could also yield significant revenue. Later on in this Modification, it is noted that New York State offers matching grant funding to any municipality undertaking a valid recycling education program. These and other examples of available resources could be a beneficial aspect of this Modification. This section should be revised accordingly.
21. The fourth paragraph under the first bullet in Section 2.3.3 on page 9 indicates the that the City promotes residential recycling through a comprehensive mailed brochure, which also references the City's website where additional information on the recycling services is provided."
- a. The Modification should elaborate on how this brochure is made available to residents, current or new, and when city-wide mailings of this brochure were last conducted. There should also be discussion of similar efforts of the other members municipalities in this Modification.
 - b. There appears to be only a single webpage on the City website that is used to promote residential recycling. Plans for expansion of this single webpage should be outlined. Updates and enhancements to the website should be discussed in the Modification.
 - c. A press release on the City website dated October 24, 2007 indicated that "Mayor Jennings Provides Recycling Bins to Two of Albany's Public Schools." Plans to expand this effort to all schools in the City or in the Planning Unit should be discussed in the Modification.
 - d. Further on page 11, it is noted that the recycling information from member municipalities could be posted on the existing domain name

capitalregionlandfill.org as a gateway for recycling information. The Department recommends an alternative approach, as this domain name may be misleading to those looking for such information.

22. The discussion in the sixth and seventh paragraphs of the bullet in Section 2.3.3 on page 9 should be enhanced to provide more details concerning the survey and responses. The percentages of responses should be included along with an identification of the percent of the work force that is represented by the five surveyed generators. Information in Attachment 4 can be used to indicate that 8% of the surveys were returned and information in Attachment 5 can be used to indicate that those that returned the survey represents 5.5% of the workforce in Albany County however there is no information relative to the percentage of the work force in the Planning Unit. This discussion should be enhanced to help provide context to the data.
23. In the first bullet in Section 2.3.3 on page 10, it is stated that “As a condition of continued use of the landfill facility, participant municipalities will be required to upgrade ordinances as required so that they are fully compliant with the requirements of Section 120-aa of New York General Municipal Law. Ordinance amendments, if necessary, should be effective no later than January 1, 2009.” Laws and ordinances consistent with the requirements of GML 120-aa were required to be adopted by all municipalities no later than September 1, 1992. All local laws that are not consistent with the requirements of GML 120-aa should be revised and adopted immediately. However, the City can elect to begin implementation of this new condition on a date selected by them for administrative and logistical purposes. The text should be revised accordingly.
24. The fourth bullet/paragraph on page 10 documents “measures that were considered to enhance the implementation of commercial recycling and waste reduction,” which are a good start. The Modification should also indicate the outcomes of the consideration, and whether these (or other) measures were accepted or rejected. The accepted measures should be added to the revised implementation schedule and the Intermunicipal Agreements, as appropriate.
25. The fourth bullet in Section 2.3.3 on page 10 very briefly identifies “recently renewed efforts to educate generators” the City has undertaken. This discussion needs to be significantly enhanced to discuss the full education and enforcement programs the City and all other Planning Unit members plan to undertake over the course of the next three years, with associated milestones, deliverables and timeframes in the implementation schedule, while the new long term solid waste management plan is being developed. This is a critical component that was not aggressively carried out as originally envisioned in the original LSWMP and is crucial to the implementation of the Modification and eventually new long term SWMP. This is not a City-only LSWMP and as such, all member municipalities education and enforcement programs should be discussed in the Modification.

26. In the third bullet in Section 2.3.3 on page 11, the Department's State Assistance Programs are identified and partial information concerning state assistance provided to the City and Bethlehem is noted.
- a. This Section should either be enhanced to summarize all state assistance money provided to all member municipalities throughout the planning period of the original LSWMP or it should be eliminated. In its current format, it provides no relevant information.
 - b. As an alternative, the Modification should indicate in what ways the Planning Unit will actually avail itself of the Department's grants resource.
 - c. There are also grants available from other funding sources such as Empire State Development, Legislative member items, and occasionally the federal government. Research should be conducted on how the Planning Unit could avail itself of these additional grant resources.
27. In the last paragraph on page 11 in Section 2.3.3, it is stated that "Pay-as-you-throw or volume-based disposal charges have been suggested as a potential mechanism to create financial incentives for waste reduction and recycling. While this approach makes sense in theory, serious practical problems such as increases in contamination of recyclable materials, have been encountered when other communities attempted to implement these programs." This statement is not supported by the numerous reports and data on programs that have successfully implemented quantity-based user-fee programs in New York or around the country and should be removed. The Modification should provide a fair and accurate description of pay-as-you-throw consistent with published reports and program documentation. It should describe how the Planning Unit members will evaluate pay-as-you-throw as a tool for reducing waste, increasing dedicated revenues, and improving recycling.

Commence operation of a MRF in 1992 - Page 12

28. In the first paragraph on page 12, it is noted that the ANSWERS did not establish a regional MRF. The non-establishment of a MRF is acknowledged as an updated element of the original SWMP. This Modification should indicate specific future alternatives for optimal recyclables management that results in maximum recycling.
29. In the second full paragraph on page 12, the second sentence should be corrected to put it in the correct tense. The first four words "Given the current market conditions" should be revised to "Market conditions at that time".
30. The third and fourth paragraphs on page 12 are quite detailed on the issues occurring during up until 1998 and then during 2007, there is gap in the recycling developments

during 1999 - 2006. Information about recycling developments during this term, it should be also included in this Modification.

31. The fourth paragraph on page 12 indicates there is a Materials Recovery Facility in the Port of Albany where the communities are shipping recyclable materials. This facility should be identified by name and specific location.
32. In the sixth full paragraph on page 12, it is indicated that the contract to utilize the privately owned MRF near the Port of Albany is effective until December 31, 2008. A discussion of the City's contemplation of issuing a RFP for the development of a single-stream MRF was postponed and will instead be included in the evaluation of the long term SWMP. While we agree that it was a good idea to postpone the issuance of this RFP until the alternatives can be more completely evaluated with respect to the appropriateness of single, dual, or three stream recovery on a long term planning unit-wide basis, this evaluation can and should certainly be performed as one of the initial evaluations to be undertaken as part of the development of the new SWMP and should not have to wait for the full SWMP to be developed as comprehensive and aggressive recovery and recycling will always be a priority management method in any LSWMP. Accordingly, in addition to identifying the plans for the management of source separated recyclables collected by the municipalities after December 31, 2008, this section should be significantly enhanced to outline the plans for moving ahead with evaluation, and eventual implementation, of an RFP for these materials within the next three years while the new SWMP is being developed. Expanded discussion should include the anticipated structure of the RFP (e.g., public/private partnership, or private contract), the term, and anticipated volumes, etc.

Continue recycling programs with a goal of 40%

33. As noted previously in comment 14, the 40% figure in the header of this section should be corrected in this section as well.
34. In the last paragraph on page 12 and the continuation onto page 13, the diversion rates are noted. As discussed in comment 15, the diversion rates need to be reviewed and revised as appropriate. Additionally, it is stated in this paragraph on page 13 that "overall, these residential diversion rates reflect reasonable capture rates for materials that are designated for collection and are consistent with the intent of the original approved SWMP."
 - a. The Department does not believe these diversion rates of 15%-17% reflect reasonable capture rates nor are they consistent with the intent of the original LSWMP. The stated intent of the originally approved SWMP was to pursue maximum reduction and recovery of waste.
 - b. On the whole, the department considers the ANSWERS planning unit reduction

and recovery program to be one of the under-performing programs in the State. As such, not only should this statement be removed, it should be replaced with a statement recognizing the under-performance of the program from what was originally planned and should provide a strong commitment to reversing that situation and through this Modification and new SWMP, striving to be a State leader in reduction, reuse and recovery.

35. In the first full paragraph on page 13, the information from the surveys from commercial generators is discussed. As noted in comment 22, this discussion should be expanded and enhanced to ensure it is understood that these reported rates are from a very small sampling of generators to help provide context to the data.
36. In the second full paragraph on page 13, C&D recycling and diversion is briefly noted. It is indicated that approximately 65% of the C&D is recovered for reuse and recycling but there is no supporting discussion or data provided to support this approximation. An enhanced discussion of this waste stream and the collection and recycling infrastructure that has been established in the Planning Unit and the data that supports the claim of 65% recovery should be provided in the Modification.

Develop Long Term Landfill Capacity to Serve the ANSWERS Wasteshed

37. In the third paragraph on page 14, it is stated that "Continued use of the Rapp Road facility to its maximum capacity was determined to be consistent with the SWMP, and the permit for the wedge was granted in January 1997. As previously discussed in comment 12a, the Department does not consider continued expansions of a the landfill beyond the identified permitted capacity within the original SWMP to be consistent with the original SWMP.
38. In the second full paragraph on page 15, in reference to the proposed Eastern Expansion at Rapp Road, it is stated that "This expansion is included as a major component of this SWMP modification." Although it is recognized that the proposed Eastern Expansion is a major component of the Modification, as discussed in comment 12e, the Modification must also contain a description and schedule for the alternative plan for export of waste for all member municipalities as the short term disposal plan should the Eastern Expansion not receive approval by the time capacity is exhausted.
39. Also in the second full paragraph on page 15, in reference to the proposed Eastern Expansion at Rapp Road, it is stated that "It is also consistent with the theme of the original ANSWERS SWMP, in that it continues to maximize the capacity of the Rapp Road facility prior to ceasing landfilling at the Rapp Road site." As previously discussed in comments 12a & 37, the Department does not consider continued expansions of a the landfill beyond the identified permitted capacity within the original SWMP to be

consistent with the original SWMP.

40. In the fourth full paragraph on page 15, it is stated that “Special Condition 5 of the City’s permit for the Rapp Road landfill requires that if the City elects to withdraw or nullify the pending application for Site C-2, it must provide an alternative solid waste management system or facility/site for implementation. Since the City will not be able to provide an alternative solid waste management system or facility/site for implementation until the SWMP Update is completed, the City cannot make any decisions with respect to Site C-2 at this time without having violated Special Condition 5 of the existing permit.” This statement is not correct and should be removed. As discussed in comments 12e & 38, the alternative plan for export of waste as the short-term disposal plan combined with the development of the new SWMP described in this Modification constitutes the required alternate solid waste management system required by Special Condition 5. This condition will be satisfied by an arrangement for disposal of waste at a disposal facility either within or outside of New York State for the period of time until a new long term disposal solution is developed as part of the new SWMP. Accordingly, the City can and must make decisions with respect to the viability of development of long-term landfill capacity at Site C-2 in this Modification. The Modification should outline the steps the City and Planning Unit will undertake to determine how and if Site C-2 will play a role in future solid waste management for the Planning Unit.
41. To reiterate an earlier concern, the entire “SWMP Deviations” section of the Modification contains information that is inconsistent with such a heading and is either historical in nature, consideration of current issues, or plans for future activities. We strongly urge a re-organization of this section for clarity and appropriate inclusion of applicable items in the implementation schedule.

2.3.4 Revised Implementation Schedule

42. Section 2.3.4 is intended to be the revised implementation schedule. The implementation schedule presented in this section along with Figure 1 is not sufficiently detailed. This implementation schedule is to be the very backbone of the Modification and must be significantly enhanced to include specific milestones, deliverables and timetables. The following are comments concerning the implementation schedule:
 - a. The schedule should be revised to contain a comprehensive set of detailed descriptions of all programs that will be undertaken in all member municipalities in all aspects of solid waste management.
 - b. The schedule must account for all activities that will be undertaken by the City and other member municipalities from now until the new SWMP is approved.

- c. The activities must all be integrated into a comprehensive implementation schedule that will show the steps that will be undertaken and are necessary to implement the programs in the Modification and get a new SWMP in place for the Planning Unit.
- d. Many activities, especially related to waste reduction, reuse, and recycling, can and must begin now, prior to development of the new SWMP. Detailed descriptions of the actions that will be taken by each member municipality with respect to education, enforcement, law/ordinance/regulatory modifications, collection, processing, and evaluation for their own programs must be directly incorporated into the implementation schedule in such a manner that will allow each member municipality to clearly understand their responsibilities and how their actions relate to the actions to be undertaken by the other member municipalities and the planning unit as a whole.
- e. These actions should address all waste generating sectors in each member municipality.
- f. These actions should also be translated into revised recovery goals for each member municipality based on their individual program for the remainder of the current planning period (2013). These recovery goals should become integrally linked with the actions that will be undertaken by each member municipality and the planning unit as a whole. The additional materials that will be added to each program to become consistent and enhance the individual programs should be identified and factored into the development of the goals. These goals should be broken down by material category or material where applicable. Participation rates and separation efficiencies should be individually assessed for these materials as appropriate. These programs and derived recovery goals will then become the overall recovery goals for the Planning Unit.
- g. All assumptions should be clearly stated and the information that is necessary to better quantify the existing state of solid waste management within the planning unit as well as to provide for proper planning for the new SWMP (e.g., waste composition studies) should be identified and incorporated into the schedule.
- h. The schedule should progress in a manner that clearly connects the current actions with the detailed actions necessary to develop and implement the new SWMP. As such, great detail needs to be provided in regard to the steps and evaluations that are currently anticipated for each aspect of solid waste management planning that the planning unit will be undertaking as part of this process. This should be for all generating sectors and all aspects of proper and integrated solid waste management. Each of these steps and evaluation/research topics should be identified along with a target time frame.

- i. All information within the text of the modification should be included in some form in the implementation schedule.
43. The information provided in number 1 of Section 2.3.4 on page 15 is not reflective of the current state of recycling program development in the Planning Unit. This merely identifies a new Phase III Recycling Program Enhancements project component indicating it will begin in 2008. This is simply not a reasonable continuation of the implementation schedule in the original SWMP as many of the components that were identified in Phases I, II and III, all of which were scheduled to be completed by the end of 1999, were never completed or, in many cases, never initiated. As noted above in comment 42, this implementation schedule must be completely revised to reflect the actual conditions and circumstances within the planning unit.
44. There were a number of elements of the original SWMP that are not accounted for in either the Milestones or Deviations sections of the Modification. A preliminary review of the original SWMP reveals the following items not covered in the Modification. Action on these items appears to have ceased and requires a restoration, which should be included in the revised implementation schedule. Please address these elements and their disposition in a complete and accurate manner.
 - a. Public Education and Promotion component including radio PSAs, promotional brochures, and speakers.
 - b. Markets update.
 - c. Monthly Recycling Meetings with community recycling representatives.
 - d. Continuation of Reuse Activities.
 - e. Technical Assistance provided to other Wasteshed communities, and the commercial sector on recycling program development.
 - f. Waste reduction actions, including "buy recycled" purchasing policies, encourage office to double-sided copying and encouraging environmental shopping.
 - g. Commercial waste audits for ANSWERS users.
45. The emergence of new waste streams, including electronics, and other wastes should be planned for, and addressed, in the revised Modification.
46. The Albany County Legislature recently passed an ordinance requiring stores that provide plastic bags to also collect such bags for recycling. Measures such as this one should be proposed in the Modification, as well as a discussion of the potential role of the County Legislature in assisting and unifying the admittedly loosely affiliated Planning Unit.

2.4 SEQR

47. Section 2.4, should be enhanced to recognize the approval roles of all member municipalities.
48. This Modification includes more than a simple schedule change. There are elements that are no longer being implemented, (proposed MRF, Sheridan Ave. facility), and other elements which are new (Eastern Expansion). The basis for a Negative Declaration needs to more clearly justified or reconsidered.

2.5 Accounting of Comments

49. Section 2.5 should be enhanced to reflect what steps and efforts the planning unit will take to account for any comments received on the Modification, not the new SWMP to be developed.

2.7 Resolution of adoption

50. Section 2.7 should be enhanced to recognize the need for all member municipalities to adopt resolutions meeting the requirements of paragraph 360-15.10(d)(2).

2.8 Additional items

51. The list of various methods considered for commercial haulers did not include permits issued by municipalities. This was one of the options discussed at the meetings leading up to submission of the Modification, and the option should be included in this document.
52. In the second paragraph of Section 2.8, it is stated that "The compilation of waste prevention strategies is included in the discussion presented above and in the municipal program discussions presented in Attachment 1. There was no compilation of waste prevention strategies provided as described. A specific discussion of the waste prevention/reductions that have been and are planned to be undertaken by the member municipalities should be outlined in a separate section of the Modification. These activities and achievements should be measured against the originally proposed waste reduction activities and goals outlined in the original SWMP.
53. In the first paragraph on page 17, it is stated that "Some revised education and enforcement strategies for residential and CII sectors in all ANSWERS communities have been identified and are addressed in the discussion presented above." Education and enforcement activities are a critical component of Modification and are not adequately addressed. Both education and enforcement activities should be discussed separately and in-depth with respect to detailed plans for each member municipality as well as the for the

planning unit as a whole. These activities should then be specifically incorporated into the implementation schedule discussed in comment 42.

54. In the second paragraph on page 17, it is stated that "Waste reduction and recycling is ultimately the responsibility of the waste generator, and many commercial haulers already provide such services. In some municipalities, haulers are required to provide recycling to any customer they provide with waste collection services." These statements require revision. All municipalities were required to adopt a local law or ordinance requiring source separation of recyclables from all waste generators no later than September 1, 1992. Accordingly, it is not only the generator's responsibility to source separate their recyclables, it is each municipalities responsibility to require each generator to source separate their recyclables. With respect to the statement regarding "many of the haulers already provide such services, this service should have already been mandatory for over 15 years in every municipality. All haulers should have already been required for over 15 years to provide recycling service to any customer to which they provide waste collection service.
55. In the fourth paragraph on page 17, it is stated that "management of food waste and biosolids (such as sewage sludge) at these existing facilities, and at other specially developed facilities designed for this purpose will be evaluated as part of the long term SWMP Update." The Department is aware of and has made the City aware of a number of institutional/commercial food waste generators in the planning unit that are interested in recycling their food residuals now. A summary of food waste generators has previously been provided to the City. These include, but are not limited to, the state facilities managed by OGS, The State University at Albany, Price Chopper, and Hannaford Supermarkets. There are many other similar generators that are looking to employ and promote environmental stewardship at their facilities through food waste recycling. Most of these facilities are not capable of recycling on-site and would be very supportive of a regional facility. The City and Planning Unit should move more aggressively towards the establishment of a regional food waste recovery facility. A partnership with the City and various institutional/commercial generators in the planning unit and Capital District to move forward on food waste recovery is timely and appropriate. This activity can and should not be restrained by the full development of the new SWMP as recovery of food waste on a regional basis will always be consistent with all elements of the new SWMP. This evaluation and program should be incorporated into the implementation schedule.
56. With regard to enhanced biosolids recovery, although not identified in this Modification, the City operates two sludge incinerators and the other member municipalities either take their sludge to one of the City's incinerators or to a landfill. Guilderland (T) operated a composting facility for this material in the past but has since ceased operating. The continued disposal through the incinerators and utilizing landfill capacity for this material should be evaluated and other alternatives for recovery of this material such a composting

should be explored. This should also be included in the implementation schedule.

57. In the last paragraph on page 17 with respect to a discussion related to banning specific material from landfills, it is stated that "For purposes of the Eastern Expansion these matters are addressed in the Part 360 Permit Application and SPEIS. As such they are beyond the scope of this SWMP Modification." The concept of a landfill operator setting restrictions on the materials allowed into their disposal facility to promote waste reduction, recycling and proper solid waste management both within and outside of their planning unit and in some cases, such as with mercury containing devices and tires, to comply with the law, is not beyond the scope of the Modification. In fact, it is one of the management tools that should be part of the evaluation in this Modification and the new SWMP.

Attachments to the Modification document

58. Attachment 1 provides a brief description of waste management practices of most of the member municipalities. This Attachment should be enhanced to provide a description of all municipalities including new members such as East Greenbush (T), North Greenbush (T) and any other municipal users of the ANSWERS Landfill. Additionally, as part of the Modification, a table should be included that specifies what materials are collected as mandatory and voluntary recyclables in each member municipality for each generating sector.
59. In the discussion for Bethlehem (T) in Attachment 1, the data indicates that of the three haulers for whom data was provided. The data from these three haulers indicates that the percent of recyclables collected by Allied Waste was 18.8%, by Robert Wright Disposal was 20.7% and Waste Management was 5.9%. Additionally, in Attachment 4, the data indicates that for Watervliet (C), the percent of recyclables collected by Waste Management was 4.0%. That is a significant difference between Waste Management and the other two haulers identified. This information should be used in further evaluations of recycling activity throughout the member municipalities and may be helpful in formulating enforcement programs.
60. In Attachment 1, there were no responses to the survey noted for the Cities of Watervliet and Rensselaer. The Modification should include information on these member municipalities as well as East Greenbush (T) and North Greenbush (T) if they are new Planning Unit member municipalities.

Attachment 2 - Local Laws

61. While the Recycling Coordinator position is strongly supportable, we do not believe the

inability to hire a person for such a position is sufficient to justify continued non-compliance with the GML 120-aa requirements that have been in effect for over 15 years. Each municipality is responsible for implementation of GML 120-aa and any non-compliance should be summarily remedied.

62. The educational letter from the City is a first step. The Modification should include a discussion of all the enforcement efforts being undertaken in the other member municipalities.
63. Table 1 in Attachment 2 should include the citation of the local recycling law, or specify that there is no local law enacted pursuant to GML 120-aa, along with a strategy to remedy such noncompliance.
64. Attachment 5 outlines calculations of waste generation that are different than what was used in the original SWMP. The reasons for modifying the calculations should be identified. Additionally, the waste composition derived or used for calculations and projections should be provided in the modification. If the waste composition used is different than that used in the original SWMP, the reasons for those differences should be provided. It is clear that waste composition and generation within the Planning Unit is still as vague now as it was when the original SWMP was developed. As noted in comment 42g, a waste composition study would be appropriate to include in the implementation schedule to assist in the evaluation, need, and impact of the various program components.
65. It is stated in the last two paragraphs of Attachment 5, in reference to local disposal capacity it is stated that "Even assuming that this capacity became available and were added to available ongoing capacity at the Albany and Colonie landfills, the additional capacity would be insufficient to meet the total MSW disposal capacity needs of the Capital District. Based upon this analysis it is concluded that there is a continuing and compelling public need for the future solid waste disposal capacity in the Capital District that the Eastern Expansion would provide." These statements should be either revised or removed. This discussion artificially limits itself to disposal capacity within the Capital District. Similar to the discussion in comment 5c, this discussion should also address disposal capacity available for the waste from the Capital District, not just that which is located within the Capital District as there is currently many remaining years of capacity at many landfills in New York State with ample capacity to absorb the Planning Units waste.
66. An evaluation should be provided of the disposal capacity need for the Planning Unit for both the short and long term based on the recovery or diversion rate projections to be developed as part of the implementation schedule discussed in comment 42. This evaluation should include the disposal capacity needs for the Planning Unit waste on an annual basis for, at a minimum, the remainder of the current planning period (2013).