

**Response to Public Comments on
Proposed Amendments to Designation of
Central and Western Long Island Sound
Dredged Material Disposal Sites**

(81 FR 7055; February 10, 2016)

June 2016

On February 10, 2016, EPA published in the Federal Register (81 FR 7055) a proposed rule amending federal regulations that designated, and placed restrictions on the use of, the Central Long Island Sound (CLDS) and Western Long Island Sound (WLDS) dredged material disposal sites, located offshore from New Haven and Stamford, Connecticut, respectively.

Through written and oral comments submitted by mail, email, the formal rulemaking docket and at public hearings in Port Jefferson, NY and Stamford, CT, EPA received comments from 119 individuals, groups or entities on the proposed rulemaking. Each comment was assigned a unique comment number as it was received. This document contains the essential points of the commenters and EPA's responses to those comments. Similar comments have been grouped together. The numbers at the end of each comment refer to the specific comment containing the point. Copies of all of the comments received are contained in a separate document.

Two tables at the end of this document associate each of the commenters with the unique comment number. The first is ordered by the date the comment was received, the second is ordered alphabetically by commenter.

Comments 1-46, 48-77, 83, 87, 89, 100, 105, and 107:

EPA received 83 nearly identical comments supporting the proposed amendments. The commenters believe that additional safeguards have been incorporated as recommended in the Final Long Island Sound Dredged Material Management Plan (DMMP) and that the amendments contained within the proposed rulemaking should further allay the fears of those who have expressed concern over the continued use of the sites. They further assert that without these relocation sites both the recreational and commercial marine industries will end, access to the public will be curtailed and eliminated, and the entire essence and foundations of the Federal, New York, and Connecticut Coastal Zone Management Programs will be significantly and unalterably crippled.

These commenters noted that dredging is necessary to ensure recreational and commercial access to Long Island Sound. Marinas, boatyards and boat clubs are the main access for the public to get out onto the Sound and they need to dredge periodically to maintain sufficient depth for safe navigation. Dredging is necessary to ensure existence of commercial and recreational industries which generate billions of dollars and support thousands of jobs around the Sound. An important element of coastal zone programs – to retain, promote and enhance access to waterways - will be harmed if public and marine industry cannot access LIS.

The commenters argue that permitting for dredging and relocation is rigorous, thorough and costly, with multiple agency reviews. There are years of studies and documentation demonstrating the lack of harm and stability of the dredged materials placed at these sites. Scientific evidence does not support claim that toxic material is dumped into the Sound. The proposed rule provides adequate safeguards for open-water placement. Without dredging the sediments remain in the relative shallows of the bays and harbors, where more fish live and where more people swim, fish and enjoy the water. Storms in the relative shallows of the bays and harbors creates more siltation, turbidity and disturbance than dredging.

Response:

EPA acknowledges the support for the proposed amendments and agrees that additional safeguards have been incorporated. EPA agrees that dredging to provide for safe navigation to and from Long Island Sound is a necessary activity and acknowledges that the marine trade industry is an important contributor to the economy of both states in the Long Island Sound region. EPA also notes that not only does environmentally-sound dredging and dredged material management help provide for safe navigation which benefits commercial and recreational uses of Long Island Sound, but it also

contributes to national security and public safety by facilitating the navigation of military, U.S. Coast Guard, and other types of public safety vessels. The policy goals of the Coastal Zone Management Act are to “preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone.” This includes achieving wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development. EPA agrees that providing public access to the coasts for recreation purposes is an important goal of coastal zone management programs. EPA notes that the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone is also an important goal. EPA, USACE and the state coastal zone management programs seek to harmonize these goals.

EPA agrees that the permitting process for dredging projects is rigorous and thorough and involves coordination with multiple agencies. EPA agrees that there is a substantial body of scientific evidence that indicates that suitable dredged material can be disposed of at the sites with minimal harm to the marine environment. Regular monitoring of the Central and Western sites indicates rapid recovery from placement events and the long term stability of the deposited material. EPA agrees that the restrictions in the proposed rule provide adequate safeguards for open-water placement and the Final Rule further strengthens those protections by including a process for setting goals for the long-term reduction of open-water disposal. To the extent the commenters are addressing possible concerns about exposure to materials that might be dredged in the future, it is possible that they are dispersed across a greater surface area and at depths more readily re-suspended by the natural forces of winds, waves and tides compared to the more compact placement at the Central and Western sites at depths much less influenced by winds and waves. Alternatively, these comments, without indicating that open-water disposal of dredged material would be harmful, appear to suggest that in some cases leaving contaminated dredged material in place in shallower, nearer-to-shore waters, would be more detrimental to the environment than dredging and placing the material at the CLDS or WLDS. EPA notes, however, that if the material is contaminated and found unsuitable for open-water disposal, it cannot be placed at one of the designated open-water sites.

Comment 47:

The commenter believes this is a good rule that will help the Long Island area as a whole. The restrictions on disposal are a good plan to help reduce the impact at the dump sites. They think the DMMP will provide a clear understanding of what exactly is going on in these dredging operations. It will make it easier for dredging projects in the future by providing information on what should be done with material and how these projects should be managed.

Response:

EPA acknowledges the support for the proposed amendments. EPA believes that the procedures included in the Final Rule provide a robust management framework for achieving the goal of reducing or eliminating open-water disposal in the Sound.

Comments 78, 98:

EPA received comments from the Citizens Campaign for the Environment (CCE) opposing the proposed amendments at the public hearings in Port Jefferson, NY, and in Stamford, CT.

CCE first noted that they do not agree with the DMMP, view it as a dismal failure and feel it should not be the basis for EPA rulemaking. They view the 2005 agreement reached by the states, USACE and EPA to have mandated that open-water disposal be phased out over time and replaced by beneficial reuse and that cost could not be the overwhelming factor in the decision-making process. They are very concerned about the “least cost” factor because the only cost assigned is to beneficial use. They are promoting beneficial reuse because it is safer

and better for the environment. CCE asserted that the DMMP was intended to actually facilitate beneficial reuse and to actively phase out open-water disposal, not simply to evaluate and list alternatives without actively working to implement them.

CCE had asked USACE to incorporate a comprehensive analysis of the nitrogen loading associated with disposing dredged materials in the Sound. They claim there was no such analysis and ask EPA to rectify that. They thanked EPA for a new nitrogen reduction strategy for Long Island Sound, but wonder how EPA can then condone nitrogen loading from dredging.

CCE asks that EPA take into account the comments provided by NY DOS in the June 2004 objection to the consistency determination. First, NY DOS wanted EPA “to assess chemical parameters such as dissolved oxygen which will be reduced in the water column during dumping activities; carbon acidity and pollutants such as heavy metals, toxic and hazardous materials which will be released in the water column and will be present after dumping is completed.” CCE claims “...that in the summer the areas that have been used as a dumping ground have higher levels of copper in lobsters, and also elevated levels of PCBs in fish.” Second, CCE said EPA must consider and evaluate the impacts from different dredging projects. They specifically mention the contamination of sediments in the Thames River. CCE expresses appreciation for USACE’s monitoring and transparency in providing them and others with access to the DAMOS, but notes that there are questions that remain unanswered. They express concern about not routinely testing sediment cores for vertical or horizontal contamination migration, not requiring tissue sampling of recolonized invertebrates and not evaluating legacy contaminants at legacy sites.

CCE believes the DMMP perpetuates open-water disposal over the next 30 years. There are no benchmarks or goals that have been crafted in 10 or 20 or 30 years. They expected a document that would have a game plan to achieve a significant reduction of open-water disposal. In NY’s own analysis, they said the DMMP would at best achieve a two percent reduction over a 30-year time frame. CCE views this as “business as usual” and a completely unacceptable process. They believe it is unrealistic to expect the states to use beneficial use techniques when they are free to dump unrestricted.

CCE also expressed concern that public input on the DMMP was not incorporated and hope that EPA will turn it into a genuine partnership between stakeholders and the public to protect Long Island Sound.

Response:

EPA considered these comments carefully but does not share the commenter’s negative perception of the utility of the DMMP, now and for the future. EPA concludes that its decision to use the DMMP as part of the basis of the current regulatory amendments is sound, appropriate, and consistent with the terms of 40 CFR 228.15(b)(4)(vi)(C), footnote 1, and (G).

EPA believes the DMMP provides useful information that will help the agencies achieve the goal of reducing or eliminating the open-water disposal of dredged materials in the Sound. To help realize this goal, the DMMP recommends standards and procedures for the agencies to use in the review of dredged material management proposals. In addition, the DMMP identifies and discusses a range of specific alternatives to open-water disposal for each of the 52 Federal Navigation Projects (FNPs) in Long Island Sound. The DMMP correctly does not purport to make final decisions about which option or options should be selected for any of these FNPs. As the DMMP states:

[t]he LIS DMMP ... identifies a wide range of potential environmentally acceptable, practicable management plans that can be utilized by various dredging proponents in their analysis of options to manage dredging projects. Recommendations for individual Federal projects include those alternatives

identified as the likely Federal Base Plans for each Federal project, and other environmentally acceptable alternatives that are either very close in cost to the Base Plan or represent opportunities for beneficial use and reduction in open water placement. . . . Actual decisions on the Federal Base Plan and any alternative Recommended Plan would be made as projects are funded and investigated in the future. These projects would each need to conduct investigations on sediment suitability and placement site acceptability, prepare any NEPA and decision documents, provide for adequate public involvement and review, secure any necessary Federal and state agency regulatory approvals, and secure Federal and sponsor funds for implementation.

LIS DMMP, p. ES-13. *See also* LIS DMMP, p. 4-16. Thus, the choice of which alternative (or alternatives) should be implemented for a specific project will be made in the future based on the facts, law and policy that exist at the time of the decision. Going forward, consideration of the otherwise “non-final” evaluations and assessments in the DMMP will occur at that later time, within the context of any particular project.

The USACE uses the “Federal Standard” in the DMMP to project the likely “Base Plan” for each FNP. While the term Federal Standard is often used synonymously with the term Federal Base Plan, the former is defined in USACE regulations as the least costly dredged material placement alternative identified by USACE that is consistent with sound engineering practices and meets all federal environmental requirements (including those established under the Clean Water Act (CWA) and the Marine Protection Research and Sanctuaries Act (MPRSA). 33 CFR § 335.7. The DMMP explains that “[t]he Federal Base Plan for any particular project is defined as the least cost environmentally acceptable alternative for constructing the project.” LIS DMMP, p. ES-1. The DMMP further explains that “Federal Base Plan is a more accurate operational description of the Federal Standard, because it defines the disposal or placement costs that are assigned to the “navigational purpose” of the project.” LIS DMMP, p. ES-1.

The Federal Standard and Base Plan are derived from USACE regulations and policy. *See* 33 C.F.R. §§ 335.7, 336.1(c)(1) and 336.2(d)(1). It was never intended or suggested that the DMMP would (or even could) alter the Federal Standard or Base Plan concepts as used by the USACE. These concepts are derived from nationally applicable USACE regulations and policy. At the same time, the DMMP makes clear that identifying the Federal Standard for a project is not the same thing as selecting the management option for the dredged material from that particular project. The DMMP explains that:

[e]stablishing the Federal Base Plan for a particular dredging project is not the same as selecting a placement option for that project, nor does it limit potential Federal participation in the project. Other factors beyond cost contribute to decisions on placement options for dredging projects. Ecosystem restoration is recognized as one of the primary missions of the USACE under its budget guidance, and the placement option that is selected for a project should maximize the sum of net economic development and environmental restoration benefits. A beneficial use option may be selected for a project even if it is not the Federal Base Plan (Federal Standard) for that project.

LIS DMMP, p. ES-2. If a beneficial use is selected for a project and that beneficial use happens to be (or be part of) the Federal Base Plan option for the project, then the costs of that beneficial use are assigned to the navigational purpose of the project. Costs of a beneficial use option that exceed the cost of the Federal Base Plan option become either a shared federal and non-federal responsibility, or entirely a

non-federal responsibility, depending on the type of beneficial use in question and whether or not any federal funding authorities apply.

It should be understood that the USACE expenditures for dredged material management are constrained by statute, regulation, and policy that govern how the USACE can expend federal funds. The USACE works to plan, design, and construct projects in a manner that most efficiently uses federal fiscal resources. The DMMP provides useful information on the range of authorities that might enable the USACE to participate in funding projects that cost more than the Base Plan, and the DMMP makes clear the USACE's willingness to use the authorities available to it to pay for what it lawfully can. The authorities that allow USACE to pursue alternatives beyond the Base Plan all require some prescribed percentage of non-federal cost-sharing. Identifying future sources of non-federal cost sharing is one of the important challenges for the Regional Dredging Team.

In evaluating dredged material management options, cost is one of many important considerations in the decision-making process. Federal and state agencies must make fiscally responsible project management decisions consistent with the applicable legal standards, which take cost and other factors into account. Under EPA regulations, when determining whether there is a "need" for open-water disposal, EPA considers the "relative environmental risks, impact and *cost* for ocean dumping as opposed to other feasible alternatives" 40 C.F.R. § 227.15(c). Furthermore, as discussed in EPA's Proposed Rule, and in the record for the 2005 Rule, EPA defines practicable alternatives to ocean dumping to be options that:

... are available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity, including the relative adverse environmental impacts associated with the use of alternatives to ocean dumping.

40 C.F.R. § 227.16(b). Thus, an alternative for any particular project would not be considered "practicable" if it would cost an unreasonable amount more than the open-water disposal option, taking into account the relative environmental benefits and detriments of both options. Moreover, an option might not be considered "available" if, after the relevant agencies work to seek funding, no party has the authority to fund that project and/or sufficient funds to do so.

For each of the 52 FNPs in the Long Island Sound area, the DMMP identifies a range of possible alternatives to open-water disposal for managing the different types of dredged material (e.g., sand, fine-grained silty material) expected from each FNP. The DMMP also estimates the possible costs associated with each alternative. In some cases, the DMMP offers the USACE's current judgment about whether an option has promise, is or is not cost effective, or may or may not be infeasible due to cost or other considerations. *See, e.g., LIS DMMP, p. 5-231* (discussion of Port Chester Harbor alternatives). In other cases, it does not offer such views. *See, e.g., LIS DMMP, p. 5-239* (discussion of Mamaroneck Harbor alternatives). As suggested above, a management option with costs substantially more than the cost of open-water disposal *might* not be a practicable alternative in a particular case because a substantial incremental cost over the cost of open-water disposal *might* be considered unreasonable. As also indicated above, however, whether higher costs are considered reasonable or not depends not just on the amount of money involved, but also on an assessment of the relative environmental effects of the options being compared. *See 40 C.F.R. § 227.16(b)*. In any event, there is no need to resolve these issues at this time. As the USACE explained, its intent for the DMMP was only "to prepare as comprehensive a list as possible of potential dredged material placement and processing alternatives for evaluation on a programmatic level (not project specific), with the understanding that future dredging projects would need to conduct their own site specific investigations when they were funded for pre-construction

studies or implementation.” LIS DMMP, p. 4-16. At that time, the Long Island Sound Regional Dredging Team (RDT) will work to assess the available alternatives for such projects.

Beyond finding funds for costs above the Federal Standard, another important approach for the RDT is to identify incentives and remove barriers to beneficial use such that the cost of alternatives becomes more competitive with open-water disposal. It has become clear in recent years that sandy dredged material is a valuable commodity, especially along New England’s beachfronts. Thus there are economic as well as environmental factors that result in most all suitable sandy dredge material being used beneficially, principally for beach and nearshore bar nourishment. The next challenge is to find economic and beneficial environmental uses for suitable silty material. As coastal resiliency becomes an increasingly important priority, EPA is hopeful that beneficial uses for silty material will emerge and expand.

In response to comments from Connecticut and New York, EPA’s Final Rule contains provisions for identification of a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives, including timeframes, to increase the percentage of beneficially used material; and developing accurate methods to track reductions with due consideration for annual fluctuations. (See responses to Comments 112 and 116.)

Regarding the concern about nitrogen loading, nitrogen loading is a concern due to its impact on excessive algae levels, which among other concerns is one potential driver of hypoxia in the waters of the Sound. EPA notes that USACE did include such a discussion in Section 3.5.2 of the DMMP (and in Section 4.5.1 of the Programmatic Environmental Impact Statement [PEIS]). The annual placement of dredged material at the open-water sites is estimated to add less than one tenth of one percent of the overall annual nitrogen loading to Long Island Sound. As noted in the DMMP, the dredging process scrapes a relatively thin layer of surficial sediment from a wide area, and aquatic placement consolidates that volume of sediment into a much smaller footprint. Hence, much of the nitrogen that was available for potential future release from surficial sediment (due to biological reworking or physical disturbance in the shallower environment) is sequestered out of contact with the water column in deposits that have been shown to be stable features on the seafloor.

Regarding concerns raised by NY DOS in 2004, EPA believes these concerns have been addressed by decades of scientific evidence from Long Island Sound. USACE’s Disposal Area Monitoring System (DAMOS) has gathered information on dredged material placement sites in the Sound since the late 1970s. The program has generated over 200 detailed reports addressing questions and concerns related to placement of dredged material in the Sound. Sequential surveys of biological conditions at sites following the placement of dredged material consistently show a rapid recovery of the benthic community to that of the surrounding habitat outside the disposal sites. Monitoring at the CLDS and WLDS has verified that past management practices have been successful in adequately controlling any potential adverse impacts to water quality and benthic habitat. With the nearly 40 year record of surveys, there have been multiple opportunities to evaluate the passage of large storms (both hurricanes and nor’easters) on the dredged material mounds on the seafloor. These investigations have demonstrated long-term stability of the mounds even at the most exposed or energetic sites.

The devastating decline of the lobster fishery in Long Island Sound is most likely due to a number of factors, but disposal of dredged material is not one of them. The 1999 lobster die-off prompted millions of dollars in research over the past 16 years, the results of which have led scientists and resource managers to believe that the phenomenon was caused by a combination of factors, including increased water temperatures, low dissolved oxygen levels (hypoxia), a parasitic disease (paramoeba), and

possibly pesticide runoff. At the Long Island Sound Lobster Health Symposium on March 7, 2003, researchers did not cite dredged material disposal as a possible factor in the die-off. Instead, the leading suspect, according to the researchers, is abnormally warm water temperatures in the Sound.

Finally, EPA strongly disagrees with the suggestion that toxic sediments will be disposed of at the sites. Rigorous physical, chemical and biological testing and analysis of sediments is conducted prior to any authorization being issued to allow materials to be placed at the sites. As the amended rule makes clear, and as the MPRSA and EPA's ocean dumping regulations provide, sediments that do not pass these tests are considered "unsuitable" and shall not be disposed of at the sites.

Comment 79:

At the public hearing in Port Jefferson, the commenter stated that we need to stop unconfined open-water dumping. Reducing it is just not going to work. We have advanced sufficiently socially and technologically to know that this practice is really detrimental. The commenter asked EPA and the Corps to go back to the drawing board in a very timely fashion to figure out how to ramp down to zero. That will actually force groups to focus on beneficial reuse and really do it because there is an absolute bar – you have no more choice but to start doing more beneficial reuse. One of those methods is solidification and using it in construction materials because it immobilizes any contaminants.

Response:

EPA believes it is neither possible nor practical to simply end open-water disposal at this time. There are and will continue to be needs for dredging to allow for safe navigation in the harbors of Long Island Sound. While the goal set in 2005 and retained in EPA's Final Rule is to reduce or eliminate open-water disposal, the Rule recognizes that the use of alternatives to open-water placement is limited by the availability of practicable alternatives. The method of solidification and use as a construction material is currently extremely expensive due to the need for dewatering and storage near to the shore, making it practicable for perhaps only the most highly contaminated dredged material. As described in the response to Comments 112 and 116, EPA has augmented the procedures in the Final Rule to provide a more robust management framework for promoting progress toward and achieving the goal of reducing or eliminating open-water disposal in the Sound.

Comment 80:

At the public hearing in Port Jefferson, the commenter, representing the Setauket Harbor Task Force, expressed concern that what EPA is trying to do doesn't square with the recommendations of USACE. The commenter expressed frustration that no changes resulted from the public participation on the DMMP and suggested that "we have to throw it out and we need to start over again."

Response:

Without further specificity from the commenter, it is difficult to understand what the commenter believes doesn't "square with" the recommendations of USACE. EPA's Final Rule is consistent with the recommendations in the DMMP. In response to comments from Connecticut and New York, EPA's Final Rule augments the procedures recommended in the DMMP by adding provisions for identification of a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives (including timeframes) to increase the percentage of beneficially used material; and developing accurate methods to track reductions with due consideration for annual fluctuations. (See responses to Comments 112 and 116.)

Comment 81:

At the public hearing in Port Jefferson, the commenter agreed with the others (78-80) and noted that there was no budget put forth. The commenter felt there was a lack of a slide aggregating all the dumping events over the last 100 years. It's unfair to just look at what current practice is when over the course of a century there has been a tremendous degradation of Long Island Sound. What comes out of Long Island Sound should be put back on land.

Response:

EPA has responded to Comments 78-80 directly above. Neither EPA nor any of the other federal or state agencies involved in dredged material management are in a position to forecast future budgets that the U.S. Congress or the state legislatures may appropriate to support dredging projects or support any incremental cost of alternative placement of dredged material. At the public hearing, EPA presented a slide with detail on the amounts of dredged material disposed of at the four existing disposal sites in Long Island Sound since 2005, when the Central and Western disposal sites were designated. Similar annual detail prior to 2005 was not available to EPA, but an annual average estimate for the period 1982 to 2004 was provided. EPA's Final Rule supports the beneficial use of dredged materials whenever practicable. Moreover, while the waters of Long Island Sound suffered from degradation over the last century, Congressional enactment in the 1970s of environmental protection laws – such as the Clean Water Act, the Marine Protection, Research, and Sanctuaries Act, and the National Environmental Policy Act, and others – gave federal, state, and local governments, as well as the public, tools to reduce and reverse this degradation. Using these tools, substantial efforts by government agencies and the public have been directed to restoring and protecting the waters of Long Island Sound. While there is always more to do, these efforts have achieved significant successes.

Comment 82:

The commenter wrote in opposition to the genesis of the reasoning for the proposed amendments – the continued dumping of dredge spoils into Long Island Sound. The commenter believes the mission to reduce or eliminate the open-water disposal of dredged material has been abandoned by EPA and USACE in favor of continued dumping of potentially toxic-laden spoils for the next three decades. To adopt and implement rules that codify the continued dumping of pesticides and heavy metals in the Sound undermines the hard work and gains made to bring the Sound back to health. Those efforts are real and measurable, but infantile and fragile. EPA should withhold from adopting these amendments in favor of alternatives that complement the investments and commitments that have been made to better the Sound.

Response:

EPA's proposed amendments did not intend to change the 2005 goal to reduce or eliminate wherever practicable the disposal of dredged material into Long Island Sound. EPA has edited the language in 40 CFR 228.15(b)(4)(vi) to make this more clear. This is also discussed in the preamble to the Final Rule. EPA disagrees with the suggestion that toxic sediments will be disposed of at the sites. Rigorous physical, chemical and biological testing and analysis of sediments is conducted prior to any permit to place materials at the sites. As EPA's existing MPRSA regulations in 40 CFR Part 227 provide, and the amended rule reiterates, sediments that do not pass these tests are considered "unsuitable" and may not be disposed of at the sites.

EPA acknowledges the hard work and progress that has been made in bringing Long Island Sound back to health and notes that this has happened at the same time as dredged material placement in the Sound has been managed by federal and state agencies working, with public input, to implement statutes such as the MPRSA, the CWA and the CZMA. In the last decade, the RDT review process established in the 2005 rule has been an important part of this effort. The proposed amendments retain the RDT and further encourage the beneficial use of dredged material. In response to comments from Connecticut and New York, EPA's Final Rule contains provisions for identification of a baseline for the volume and

percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives, including timeframes, to increase the percentage of beneficially used material; and developing accurate methods to track reductions with due consideration for annual fluctuations. (See responses to Comments 112 and 116.)

Comment 84:

The Village of Asharoken asked EPA to withdraw the recommendations of the DMMP. The DMMP was tasked with coming up with an alternative that would phase out open-water disposal of dredged materials. While recognizing that dredging is a necessary activity, the commenter encouraged the use of the alternatives described in the DMMP. Open-water dumping may make economic sense being the least expensive, but it does not make environmental sense. It does not make sense to proceed with a plan that did not follow its directive, harms the ecosystem of the LIS, and counteracts all the good efforts to improve the LIS.

Response:

EPA does not agree that the task of the DMMP was limited to proposing a plan to phase out open-water placement of dredged material regardless of whether such a plan would be feasible. Rather, the DMMP met its objectives of identifying future dredging needs within Long Island Sound and estimating the quantities of dredged material that will be generated by this dredging, as well as identifying a range of options, including beneficial use options, for managing that material. Individual project-specific permitting decisions will determine whether the material at issue should be handled by placing it at an open-water site or through some practicable alternative method. EPA agrees with the commenter's encouragement of the use of alternatives described in the DMMP and the proposed amendments establish standards and procedures toward that end. It would be counterproductive to ignore the many useful recommendations in the DMMP. The goal set in 2005 and retained in EPA's Final Rule is to reduce or eliminate open-water disposal, but the 2005 regulations also recognized, as common sense indicates, that alternatives to open-water disposal can only be implemented when they are practicable. *See* 70 FR 32519 (2005 Rule, 40 CFR 228.15(b)(4)(vi)(C) ("Completion of the DMMP means finishing the items listed in the work plan . . . , including the identification of alternatives to open-water disposal, and the development of procedures and standards for the use of practical alternatives to open-water disposal."). Finally, as noted in the response to Comment 78, EPA disagrees with the assertion that the disposal of suitable dredged material harms the ecosystem of Long Island Sound.

Comments 85, 86, 88, 90, 99, 102, 103, 106:

EPA received eight comments in opposition to the disposal of dredged material in Long Island Sound without making direct reference to the proposed amendments. The concerns mentioned included the fragility of Long Island Sound, the possibility that some of the material is toxic; and the need for alternative uses of dredged materials.

Response:

As discussed above in the response to Comment 78, neither the existing laws and regulations nor the proposed amendments would allow the disposal of toxic or contaminated material at the sites. As noted in the response to Comment 83, improvements in both water and sediment quality in Long Island Sound have been coincident with, among other things, the careful management of dredging and dredged material disposal. The Final Rule will strengthen that management approach and further encourage the beneficial use of dredged materials.

Comment 91:

EPA received comments at the Public Hearing in Stamford from the Greenwich Harbor Management Commission in support of the proposed amendments. The Commission expressed concern that there be an open-

water disposal option for an upcoming project to dredge the Mianus River next winter. The Commission urged EPA to keep the disposal sites open while looking for other long-term solutions.

Response:

EPA acknowledges the support for the proposed amendments and agrees that there is a continuing need for open-water disposal sites for suitable material, while also requiring beneficial use of dredged materials when practicable alternatives are available.

Comment 92:

EPA received oral comments at the public hearing in Stamford and written comments from the Connecticut Harbor Management Association supporting the proposed amendments. They believe the amended regulations incorporate standards and procedures for determining which alternatives to pursue for different dredging projects so as to reduce or eliminate wherever practicable the open-water disposal of dredged material. They support the goal of reducing open-water placement, but believe that it is not feasible at this time, either environmentally or economically.

Response:

EPA acknowledges the support for the proposed amendments and agrees that the standards and procedures, as augmented in the Final Rule, will support the goal of eliminating or reducing open-water disposal. EPA also agrees that relying solely on alternatives to open-water disposal for all dredged material from the Central and Western regions of Long Island Sound is not likely to be feasible at this time. Such alternatives will, however, likely be feasible for some of that material. For example, sandy material is commonly used for beach and nearshore bar nourishment at the present time and the standards in the Final Rule expect that sandy material will continue to be used beneficially. Ultimately, decisions about how particular dredged material will be managed will be made in individual project-specific reviews under the MPRSA and/or the CWA.

Comment 93:

EPA received comments at the public hearing in Stamford from the Fairfield County Commodores Association in support of the proposed amendments that were principally focused boater safety, the environmental cost of transportation for upland disposal and the significant increase in cost to dispose of dredged material if the sites are closed. They referred to a statement by CT DEEP Commissioner Klee saying, "In all these years, there is no evidence linking the open-water disposal of dredged materials to diminished water quality or damage to natural resources, aquatic life or public health in Long Island Sound."

Response:

EPA acknowledges the support for the proposed amendments and agrees that the disposal of suitable dredged material does not significantly diminish water quality nor cause long-term damage to aquatic life in Long Island Sound. In addition, EPA agrees that dredging is necessary to assure safe navigation in the waters of Long Island Sound for recreational, commercial, national defense, and public safety purposes. EPA also agrees that when considering dredged material management options, not only should possible adverse effects of open-water placement of the material be considered, but it is important to consider any adverse environmental consequences of the possible alternatives to open-water placement of the dredged material.

Comments 94, 95, 96, 97:

EPA received oral and written comments from three marine trade representatives and oral comments from a fourth at the public hearing in Stamford in support of the proposed amendments. The main points of the commenters were that: dredging is essential to provide safe access to harbors and rivers for recreational and

commercial boat users; many waterfront businesses and jobs depend on boat operators having safe access to and from Long Island Sound; the disposal sites provide a much needed option for placement of dredged material; and the proposed amendments provide adequate safeguards against environmental harm.

Response:

EPA acknowledges the support for the proposed amendments and agrees that there is a continuing need for open-water disposal sites for suitable material, with emphasis on beneficial use of dredged materials whenever practicable. EPA also agrees that the existing laws provide strong safeguards for the environment of Long Island Sound and EPA is committed to working with federal, state and local authorities, as well as with the public, to enforce those safeguards.

Comment 101:

The Town of Brookhaven, NY provided comments that are captioned as comments on the Draft Dredged Material Management Plan (DMMP) and PEIS. The Town was critical of many aspects of the draft DMMP and requested more time to review the Plan. In closing, the Town encouraged EPA to include enforceable quantitative goals for substantial reductions in open-water disposal, advocating a goal of 50% or greater reduction. The Town also proposed a quantifiable goal of sedimentation reduction for each dredge site.

Response:

EPA notes that the USACE's draft DMMP and PEIS were the subject of public comment in 2015 and were finalized in January, 2016. The comments do not make any direct reference to EPA's proposed regulatory amendments. In response to comments from Connecticut and New York, EPA's Final Rule contains provisions for identification of a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives, including timeframes, to increase the percentage of beneficially used material; and developing accurate methods to track reductions with due consideration for annual fluctuations. The inter-annual variability in the number of dredging projects and the amount of dredged material generated by those projects, along with the uncertainty of the federal budget process, and the current uncertainty around whether various alternatives to open-water disposal will be able to accommodate some or all of the material from specific projects in the future makes it inadvisable to set rigid, enforceable open-water disposal reduction requirements. That said, EPA agrees that setting non-enforceable step-down goals is a good idea that can help provide an incentive and a measuring stick to help drive reductions in open-water disposal. The Final Rule establishes a Steering Committee and RDT and charges them with establishing step-downs in the amount of dredged material to be disposed of over time with a mechanism to track those step-downs reductions. (See responses to Comments 112 and 116.)

Comment 104:

The commenter, a lifelong resident and boater in the waters surrounding Long Island, expressed concern with the proposed amendments. The commenter notes the seemingly contradictory regulatory views of what is suitable for being placed in Long Island Sound – tight regulation of the holding tank in boats, while allowing disposal of contaminated dredged spoils in the Sound. What happened to the 2005 agreement to phase out open-water disposal? Dumping should not be allowed to continue. There are better alternatives.

Response:

EPA does not agree that differing regulatory programs affecting Long Island Sound contradict one another. Boating and runoff regulations are primarily aimed at reducing the discharge of nitrogen and bacteria and other pathogens into the waters of the sound. Neither of these pollutants, however, are significant constituents of dredged material that might be disposed of in the Sound. Moreover, EPA's regulations under the MPRSA strictly limit the presence of contamination in dredged material that could be placed at a disposal site in Long Island Sound. *See* 40 CFR Part 227 and 40 CFR

228.15(b)(4)(vi)(C)(3)(i) of the new Final Rule. EPA's proposed rule provides standards that reflect the expectation that alternatives to open-water disposal will be employed for nearly all sandy sediments, and requires project proponents to evaluate practicable alternatives to disposal of silty materials. EPA's proposed rule retains the 2005 long-term goal of reducing or eliminating open-water disposal.

Comment 108:

Spicer's Marina expressed concern with EPA's conclusion that the proposed action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. It contends this has been totally untrue due to the predatory, discriminatory, and unfair actions of the NY DOS.

Spicer's Marina also believes the Ambro Amendment, which applies the MPRSA to Long Island Sound, has adversely effected Connecticut and Long Island Sound by increasing costs and paperwork and delaying projects. It suggests that the eastern boundary of Long Island Sound should run from Little Gull Island, through Bartlett's Reef to the Connecticut mainland. It further contends that Block Island Sound, Gardiners Bay, the Race, Fishers Island Sound, and the New London Disposal Site are not part of Long Island Sound.

Spicer's Marina believes it must have the Supplemental Environmental Impact Statement (SEIS) for Eastern Long Island Sound completed in order for it to be able to effectively comment on whether the Connecticut waterfront, especially in Eastern Connecticut, is being treated fairly and will be able to operate effectively under the proposed conditions and with a fair and reasonable number of nearby dredge material disposal sites.

Response:

EPA disagrees with the commenter regarding its objection to EPA's conclusion that the proposed action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. As EPA noted in the proposed amendments, the restrictions apply only to projects subject to MPRSA; i.e., all federal projects and non-federal projects greater than 25,000 cubic yards. Small entities are most likely to be involved with projects below the 25,000-cubic yard threshold and are not directly affected by these regulatory amendments. Such small projects are subject to Clean Water Act requirements instead. If anything, EPA's action to amend the regulations and maintain the site designations for the CLDS and WLDS will assist these small entities by providing a clear option for open-water disposal of dredged material when necessary and appropriate.

The commenter's suggestion of a different eastern boundary has been raised with USACE and EPA in the past. In 2009, EPA advised USACE that the boundary suggested by the commenter should not be used as the eastern boundary of the Sound under MPRSA Section 106(f). *See* Memorandum from Mark A. Stein and Melville P. Coté, Jr., EPA, to Michael F. Keegan, USACE, "The Eastern Boundary of 'Long Island Sound' for Purposes of MPRSA § 106(f), 33 U.S.C. § 1416(f)," (May 12, 2009). EPA's analysis concluded that the boundary runs northeasterly from Orient Point, through Plum Island, Great Gull and Little Gull Islands, Fishers Island, and Napatree Point, RI, which is sometimes referred to as the "Old Base Line." This boundary has been used consistently by EPA and USACE in all discussions and documents concerning dredged material disposal sites in Long Island Sound.

A Draft Supplemental EIS in support of EPA's proposed designation of an open-water dredged material disposal site for Eastern Long Island Sound was made available for public comment on April 27, 2016. *See* 81 FR 7055 (February 10, 2016).

Comment 109:

The Mayor of the Village of Northport, New York urged EPA to reject the DMMP, asserting that it ignores the intent and goal of eliminating open-water dumping of dredge material. The commenter asserts that allowing dumping would negate the investments Northport has made in reducing nitrogen levels in their sewer plant and

other infrastructure improvement to control storm water runoff and notes that these investments have led to significant reductions of pollution in Northport Harbor and ultimately Long Island Sound.

Response:

EPA's Final Rule explicitly retains the goal of reducing or eliminating open-water disposal of dredged material. EPA applauds the investments that the village has made to reduce the discharge of pollutants into Northport Harbor, but disagrees that these investments will be negated by placement of suitable dredged material at the designated sites in the Sound. As discussed in greater detail in the response to Comment 78, the annual placement of dredged material at the open-water sites is estimated to add less than one tenth of one percent of the overall annual nitrogen loading to Long Island Sound. Reduced pollutant discharges as a result of improvements such as those made by the Village of Northport should generally reduce the contaminant load found in dredged material. Individual, project-specific reviews will determine how the material from a particular project will be managed, either through beneficial use, open-water disposal, placement in a containment facility, or some other method.

Comment 110:

The Village of Mamaroneck, New York submitted a copy of a resolution adopted by the Board of Trustees of the Village, urging Governor Cuomo and New York State to support the initiatives of the EPA and USACE to retain the relocation sites for dredged material in an environmentally safe manner in accordance with the DMMP and EPA's proposed rulemaking.

Response:

EPA acknowledges the support for the proposed amendments and agrees that adequate safeguards have been incorporated.

Comment 111:

The U.S. Department of the Interior's Bureau of Indian Affairs (BIA) requested that EPA consult with the Shinnecock Indian Nation on the proposed rule.

Response:

EPA coordinated with all potentially affected indian tribes. Upon receipt of the letter from BIA, EPA again contacted the Shinnecock Indian Nation to gauge its interest in participating in the formal consultation process. The tribe did not, however, express an interest in participating. EPA will continue to coordinate with the Shinnecock Indian Nation, as appropriate, in the future.

Comment 112:

The Connecticut Department of Energy and Environmental Protection (DEEP) strongly supports the adoption of the regulation such that it ensures the continued ability to conduct maintenance dredging and make use of the Central and Western disposal sites as cost-effective and environmentally sound methods of dredged material management. DEEP also agrees that it is important to pursue alternatives to the use of open-water disposal sites, particularly focused on beneficially using dredged material as a resource to achieve habitat restoration and coastal resilience objectives.

DEEP believes that through continued collaborative efforts with federal and state partners, progress can be made toward increased use of alternatives to open-water disposal, but with the understanding that it will take time and large reductions may not be feasible in the short term. DEEP recommended that EPA have the following guiding principles in mind when finalizing the regulation.

- The stated goal remains the same as in the 2005 rule – “reduce or eliminate open-water disposal of dredge material in Long Island Sound.”

- The rule should direct the establishment of a Steering Committee consisting of high level representatives from the states, EPA and USACE. The charge to the Steering Committee is to develop a baseline for the current percentage of dredge material being beneficially used and to establish a reasonable and practicable series of stepped objectives to increase the percentage of beneficially used material including timeframes. The charge will also include developing accurate methods to track reductions with due consideration for annual fluctuations.
- When tracking progress it must be recognized that “exceptional circumstances” may result in delays in meeting an objective. Exceptional circumstances should be infrequent, irregular and unforeseeable.
- While acknowledging the importance of making measurable progress toward the goal, the milestones and stepped objectives should incorporate an adaptive management approach toward continuous improvement and not establish enforceable commitments to numeric reduction targets.
- For dredging projects subject to this regulation, the RDT should be consulted starting in the early stages of project planning for consideration and recommendation of beneficial use of dredged material wherever practicable, as that term is defined by EPA.

Connecticut expressed commitment to working with federal and state partners to develop and promote the use of innovative and practicable alternatives to open-water disposal. This effort must include identification of funding sources. In addition, all partners need to work together to address and overcome regulatory hurdles. One activity that may facilitate and establish a path forward is to commit to jointly implement two pilot projects.

Finally, DEEP emphasized how important it is for EPA to resolve issues raised by USACE that have the potential to constrain their ability to conduct future maintenance dredging. It is imperative for Connecticut that the final rule allow for the continued use of open-water disposal sites while alternatives are developed over the long term, and that USACE’s important role in maintenance dredging is crucial to Connecticut’s coastal economy, continues.

Response:

EPA appreciates Connecticut DEEPs support for the proposed regulation. EPA agrees that the proposed rule ensures the continued ability to conduct maintenance dredging and make use of the Central and Western disposal sites as cost-effective and environmentally sound methods of dredged material management. EPA also agrees that it is important to pursue alternatives to the use of open-water disposal sites, particularly focused on beneficially using dredged material as a resource to achieve habitat restoration and coastal resilience objectives.

EPA shares DEEP’s belief that through continued commitment to collaborative efforts with federal and state partners, progress can be made toward developing and promoting the use of innovative and practicable alternatives to open-water disposal. This effort must include identification of funding sources and a commitment to work together to address and overcome regulatory hurdles, when appropriate. EPA agrees that committing to a few projects to pilot alternative uses of dredged material can facilitate and establish a path forward. EPA agrees that this will take time and that large reductions may not be feasible in the short term.

EPA’s response to DEEP’s suggested guiding principles is as follows:

- EPA agrees with Connecticut (and New York, see Comment 116) that the fundamental goal of the state and federal parties since at least 2005 has been to reduce or eliminate open-water disposal of dredged material in Long Island Sound. EPA used those same words in the proposed rule in the very first paragraph of the “Background” section of the preamble. EPA did not intend to signal a change in that

goal in the Proposed Rule and has added language in 40 CFR 228.15(b)(4)(vi) of the Final Rule to clarify this point. At the same time, EPA believes that in the context of the RDT reviewing projects or developing alternatives, the idea of practicability, as defined in 40 CFR 227.16(b), provides important additional clarification to the application of the goal. EPA notes that New York supports the consideration of practicability in this context.

- EPA agrees with Connecticut (and New York, see Comment 116) that it would be useful to establish a Steering Committee, consisting of high level representatives from the states, EPA and USACE. The Steering Committee will provide policy level direction to the RDT and facilitate high level collaboration among the agencies critical to the accelerating the development and use of beneficial alternatives for dredged material. The charge to the Steering Committee includes identification of a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives, including timeframes, to increase the percentage of beneficially used material, while recognizing that the nature of the dredging program will result in fluctuating annual volumes of dredged material; and guiding the RDT's development of accurate methods to track reductions with due consideration for annual fluctuations. While state participation on the Steering Committee and RDT will be voluntary, EPA expects that each of the interested federal and state agencies will commit the necessary resources to collect the data necessary to support the establishment of the baseline and tracking the future disposition of dredged materials, and to engage in timely RDT project reviews.
- EPA agrees with Connecticut (and New York, see Comment 116) that when tracking progress, it must be recognized that "exceptional circumstances" may result in delays in meeting an objective. Exceptional circumstances should be infrequent, irregular and unpredictable.
- EPA agrees with Connecticut that while acknowledging the importance of making measurable progress toward the goal, the milestones and stepped objectives adopted by the Steering Committee should incorporate an adaptive management approach toward continuous improvement rather than establishing enforceable commitments to strict numeric reduction targets.
- EPA agrees with Connecticut that for dredging projects subject to this regulation, the RDT should be consulted starting in the early stages of project planning for consideration and recommendation of beneficial use of dredged material wherever practicable, as that term is defined by EPA.

Comment 113:

Connecticut's entire Congressional Delegation jointly wrote in support of USACE's DMMP and PEIS and noted that EPA's proposed rule to amend the restrictions on CLDS and WLDS reflect many of the overall goals of the DMMP. They noted that the proposed rule examines alternative placement opportunities for dredged material before resorting to open-water placement and highlights the need to continuously monitor and research the environmental impacts of all dredging activities, past and future. They expressed concern that language carried over from the 2005 Rule regarding "practicable alternatives" and "reasonable incremental costs" is not defined in clearer terms. In order to effectively maintain the balance between environmental and economic benefits of Long Island Sound, some certainty regarding the potential cost of maintenance projects must be included in the final language. Knowing that the makeup of dredged material from each navigation project is different, they understand that placement alternatives need to be examined on a case-by-case basis. They note that EPA itself recognizes in the proposed rule that the lack of clarity on future project costs "could result in deferral of maintenance or improvement projects that could impact navigation." They hope that the Final Rule will more clearly address this issue.

The Delegation notes that without reliable and timely dredging, Connecticut's deep-water ports in Bridgeport, New Haven and New London have seen an 80 percent decrease in imports over the last decade. A comprehensive dredging plan for Long Island Sound needs to be a vital component of the Connecticut Port Authority's goal to expand Connecticut's major ports and grow the maritime economy. They believe that

continued use of CLDS and WLDS, along with an increased effort to find sustainable on-land solutions for suitable dredged materials, will provide the Long Island Sound region with a balanced approach for future waterway maintenance projects.

Response:

EPA appreciates the Connecticut Congressional Delegation's support of the proposed rule and recognizes the importance of dredging to Connecticut's deep-water ports. EPA agrees that increased efforts to find sustainable alternative solutions for suitable dredged materials will provide important options for the future.

The term "practicable alternative" is defined in 40 CFR 227.16(b) of EPA's ocean disposal regulations as an alternative which is "available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity, including the relative adverse environmental impacts associated with the use of alternatives to ocean dumping." This definition of "practicable alternatives" has been in EPA's MPRSA regulations since 1977, and it has been expressly cross-referenced in the restrictions on the CLDS and WLDS since promulgation of the 2005 Rule (compare (b)(4)(vi)(I)(1) and (2) in the 2005 rule with (b)(4)(vi)(C)(1) and (2) in the Proposed Rule). The accompanying discussions in the preamble of the 2005 Rule and the Proposed Rule are essentially the same. In the nearly eleven years that the restrictions have been in place there have been no instances where a dredging project could not go forward because of a disagreement over whether an alternative was "practicable."

The possibility that EPA and USACE might disagree whether or not an alternative is "practicable" is rooted in part in the fact that the two agencies have different regulatory definitions of the term "practicable." That difference has existed since 1977. Yet, despite these differences, the two definitions also share important commonalities, as is discussed in the preamble to the Final Rule. For example, cost and technical feasibility are considered under both definitions. EPA is unaware of any project in New England that has been stopped due to the difference in definitions. EPA's Ocean Dumping Regulations also provide a mechanism for elevation and resolution in the event there is a disagreement between the EPA Regional Administrator and USACE's District Engineer. [40 CFR 225.2 – 225.4]

EPA's definition of "practicable" and its application do not directly affect USACE's definition of the Federal Standard. If EPA determines that an alternative is "practicable," then non-federal sponsors would need to be found to pay for any incremental cost above what USACE can legally participate in. One of the important roles of the Steering Committee and RDT described above in response to Connecticut DEEP (see Comment 112), is the identification and piloting of beneficial use alternatives, identifying possible resources to support those alternatives, and eliminating regulatory barriers, as appropriate. EPA expects that the Steering Committee and RDT will, generally and on a project specific basis, facilitate the process of matching projects, beneficial use alternatives and the resources necessary to implement them, thus mitigating the risk that a project cannot proceed.

EPA's definition of "practicable" requires that the alternative be "available at reasonable incremental cost." Said differently, by definition, a "practicable alternative" will not impose *unreasonable* incremental cost above the cost of ocean disposal. As noted in the preamble to the Proposed Rule, the language retained from the 2005 Rule does not attempt to specify in advance how the "reasonable incremental cost" standard will be applied in any particular case. The regulation contemplates a balancing test, and the EPA believes that the determination is best made on a case-by-case basis. The language of the 2005 Rule also does not attempt to specify who will need to pay for any reasonable incremental costs. Rather, the share of such costs (if any) to be borne by private parties, state government, local government, or the federal government also will need to be worked out in response to

actual situations. The DMMP takes a similar approach, leaving decisions about alternatives and funding to later, case-by-case determinations.

In Long Island Sound, with the states and federal agencies working in partnership, EPA believes that there is a strong likelihood that the optimal dredged material management options will be selected.

Comment 114:

The U.S. Army Corps of Engineers, New England District (USACE) expressed concern that the proposed rule could have a significant adverse impact on federal navigation by potentially adding significant costs to USACE projects. USACE's specific concerns are as follows:

1. The proposed rule provides that if the use of a practicable alternative is required in the future and no entity is willing to pay the reasonable incremental cost, the use of the sites will be prohibited for such projects even when this means the plan projects cannot go forward. The scenario could arise where a practicable alternative is identified that exceeds the Federal Standard and therefore would require a non-federal sponsor to fund the difference in cost. If a non-federal sponsor could not do so or refused to do so, disposal at the Central or Western disposal sites would be prohibited and the project could not go forward. As such, this provision of the Proposed Rule would impact the Corps' application of the Federal Standard and negatively impact maintenance of Federal Navigation Projects in Long Island Sound.

2. The role of the RDT under the proposed rule raises concerns regarding whether it is in compliance with the Federal Advisory Committee Act (FACA) since it is required to provide "recommendations" to the USACE. Furthermore, while the RDT's recommendations may have been necessary while the DMMP was under development, now that the DMMP has been finalized, the role of the RDT should be one of an informational resource and collaborator rather than a body charged with providing "recommendations" to the Corps. This point was reflected in the DMMP where the Corps stated: "From a Federal agency perspective (due to the requirements of the FACA) an RDT cannot exercise regulatory authority, advise, make recommendations or supplant the authority of its member agencies. However, the collaborative nature of the team should provide the agencies with more information and greater options for their evaluations and decision-making on the projects and applications for approval before them for action."

3. The Proposed Rule maintains the current language of 40 CFR 228.15(b)(4)(vi) which provides "All references to 'permittees' shall be deemed to include the U.S. Army Corps of Engineers (USACE) when it is authorizing its own dredged material disposal from a USACE dredging project." The USACE does not permit its own projects and is therefore not a permittee. This language should be stricken.

4. The Proposed Rule maintains the current language of 40 CFR 228.15(b)(4)(vi)(I)(1), which states that "disposal at the sites shall only be allowed if there is no practicable alternative to open-water disposal and that any practicable alternative will be fully utilized for the maximum volume of dredged materials practicable." The requirement that "any practicable alternative will be fully utilized for the maximum volume of dredged material practicable" could be problematic since it could require the Corps to dispose of dredged materials at more than one locations, which would add significant cost to the project. If such cost was not covered by the non-federal sponsor, dredging would be deferred, severely impacting navigation in Long Island Sound.

USACE closed by expressing great concern that the Proposed Rule, as drafted, could have an adverse impact on the continued viability of USACE's navigation and dredging program in Long Island Sound.

Response:

EPA believes it is unlikely that the proposed rule could have a significant adverse impact on federal navigation by potentially adding significant costs to USACE projects. EPA's specific responses are

numbered in the same fashion as in USACE's comment. EPA's responses to these comments are also further elucidated in the preamble to the Final Rule.

1. The USACE expresses concern that requiring the use of practicable alternatives to open-water disposal could result important federal dredging projects being blocked when a practicable alternative is identified but no party is willing or able to pay required non-federal costs for the alternative. After careful consideration, EPA takes issue with the premise of the comment and concludes that the result feared by the USACE is highly unlikely to materialize in practice. While every case must be looked at based on its own particular facts, EPA thinks that if no party is willing or able to pay required costs for the alternative, then the alternative would, at least in most cases, be regarded as "unavailable." As a result, the alternative would be outside the definition of "practicable," which only includes available alternatives. It should be clear that EPA understands and appreciates the importance of dredging in Long Island Sound for ensuring safe navigation and facilitating marine commerce and recreation. EPA is designating the CLDS and WLDS because open-water dredged material disposal options are needed to support necessary dredging. EPA does not want to block this necessary dredging by deeming alternatives to open-water disposal to be practicable even though no one can or will pay for them to be implemented. *See also* Response to Comment 113 (immediately above USACE's comment).

2. EPA notes that the 2005 rule established the RDT and charged the RDT with making "recommendations" until the completion of the DMMP. The Proposed Rule incorporated the same language in providing for the RDT into the future. The "recommendations" of the RDT are not formal decisions subject to appeal, but rather advice or suggestions to USACE for its consideration regarding whether the RDT has identified a practicable alternative to open-water disposal for a particular project. EPA does not intend for the RDT to in any way usurp USACE's authority to make decisions or determinations on the placement of dredged material (subject to EPA's review under Section 103(c) of the MPRSA, 33 USC 1413(c)).

Regarding USACE's concerns about the FACA, EPA has carefully reviewed the roles of the RDT and Steering Committee as contained in the Final Rule and finds that the RDT and Steering Committee are exempt from the FACA under 2 USC 1534(b). *See also* Memorandum by the Office of Management and Budget (OMB) entitled, "SUBJECT: Guidelines and Instructions for Implementing Section 204, 'State, Local, and Tribal Government Input,' of Title II of P.L. 104-4" (Sept. 21, 1995). At the same time, creating federal/state committees such as the RDT and Steering Committee to share information and advice and recommendations is also consistent with the FACA and relevant implementing guidance from OMB.

3. The language in question was also included in the restrictions in the 2005 Rule. The intention of the 2005 Rule was to apply the restrictions to all persons who may seek to dispose of dredged material at the sites under MPRSA. As discussed in the preamble to the 2005 Rule (70 FR 32511), the restrictions were intended to apply both to all MPRSA permittees (*i.e.*, private parties and governmental agencies other than the USACE), and to the USACE itself which disposes of dredged material pursuant to authorizations rather than permits. The USACE was "deemed" to be a permittee in the 2005 Rule so as to make it clear that it was subject to the site Restrictions where the term "permittee" was used. EPA was not suggesting that the USACE was actually a permittee or that it needed to issue itself a permit.

EPA understands USACE's comment as objecting to being considered a "permittee," rather than an indication that USACE is not subject to the restrictions. Since other proposed revisions to the 2005 rule eliminated the use of the word "permittee," there is no longer a need to specifically qualify what "permittee" means. Consistent with USACE's comment and EPA's intention that the restrictions apply to all persons who may dispose of dredged material at the sites, EPA has revised the sentence in

question in 40 CFR 228.15(b)(4)(vi) to read: “With regard to federal projects, the restrictions apply to the U.S. Army Corps of Engineers (USACE) when it is authorizing its own dredged material disposal from a USACE dredging project, as well as to federal dredged material disposal projects that require authorization from a permit issued by the USACE.”

4. As acknowledged by USACE, the language in question was included in the restrictions in the 2005 Rule. In the preamble to the 2005 Rule, EPA explained that even if a practicable alternative is not available for all of the dredged material from a project, if a practicable alternative is available for a portion of the dredged material, it must be used for disposal of that portion of the material in order to at least reduce the use of the designated sites. EPA views the concern that this “could be problematic” because it might “add significant cost to the project” as misplaced. As discussed above, by definition, the requirement that projects use “practicable alternatives” will not impose unreasonably higher costs. In the near term, sandy material is most likely to have a beneficial use. Since sand is an increasingly valuable commodity, EPA considers it unlikely that a non-federal sponsor cannot be found to cover the reasonable incremental cost.

Comment 115:

The Connecticut Harbor Management Association (CHMA) provided extensive written comments in support of the proposed amendments to augment the oral testimony provided by one of their members at the public hearing in Stamford, CT on March 2, 2016. (See Comment 92). The letter provides background information on CHMA’s interest in the DMMP and EPA’s rulemaking. Representatives of CHMA participated in the process of preparing the DMMP and some of the information was previously supplied in comments to USACE on the DMMP. CHMA represents the interests of municipal harbor management commissions, state harbor masters among others. CHMA notes that the active federal navigation projects in CT impact 28 waterways. These waterways require timely and economical maintenance dredging to maintain use by industry, commercial, and recreational users. CHMA referred to a study of federal maintenance dredging projects they authored in 2005 and included in an appendix.

While supporting the goal of reducing open-water disposal, CHMA believes the goal of elimination of open-water disposal is not an appropriate solution, is economically and environmentally infeasible and unnecessary at the present time. CHMA makes note of USACE’s Federal Standard and the rigorous testing required to determine suitability for open-water disposal. CHMA is aware of no scientific data or study indicating that open-water disposal is causing any significant adverse impacts on coastal resources and environmental quality. CHMA’s experience is that fine-grained sediments dominate the material dredged and that alternative uses of this material are economically and environmentally infeasible.

CHMA encourages EPA to amend the 2005 rule to incorporate procedures and standards that are consistent with the recommendations of the DMMP. CHMA also recommends that coordination and cooperation between the coastal zone management programs of Connecticut and New York be stated as a specific objective of federal policies and regulations for LIS dredged material management. They further recommend that increased attention be given to implementation (as distinguished from simply identification) of feasible alternatives. CHMA encouraged Congress to consider funding demonstration/pilot programs for alternative methods for beneficial use. They encourage Connecticut to amend regulations to facilitate beneficial, environmentally sound use of suitable materials upland. They also recommend the increased use of federal hopper dredges.

CHMA encourages a meeting of the Long Island Sound Congressional Caucus to hear and consider issues affecting beneficial use. Finally, CHMA encourages all stakeholders to recognize and respect each other’s objectives as important and legitimate and work together as partners to resolve issues in an objective, balanced and practical manner.

Response:

EPA appreciates the Connecticut Harbor Management Association's support for the proposed amendments and their participation in the process of developing the DMMP. EPA agrees that timely and economical maintenance dredging is critical to maintaining safe navigation for all manner of users. In EPA's view, the proposed amendments are consistent with the recommendations in the DMMP.

As noted in the response to Comment 92, EPA also agrees that relying solely on alternatives to open-water disposal for all dredged material from the Central and Western regions of Long Island Sound is not likely to be feasible at this time. EPA agrees that a concerted, collaborative effort will be needed to spur greater use of beneficial alternatives, including piloting alternatives, identifying possible resources, and eliminating regulatory barriers. As described in the response to Comment 112, EPA believes that a Steering Committee should guide these efforts, with the support of the Regional Dredging Team, and has included this among the responsibilities of the Steering Committee in the Final Rule.

Comment 116:

The New York State Department of State (DOS) and the New York State Department of Environmental Conservation (DEC) jointly commented on the proposed amendments. They noted New York's unwavering commitment to the Sound's environment which has led to the State consistently advocating for clear, staged reductions of the dumping of dredged material in the Sound. In order to move forward on the issue of dredged material management, NY requests that EPA revise the proposed amendments to produce measurable advances as required in the 2005 rule.

NY believes the DMMP fails to recommend sufficient procedures and standards to meet the goal of the 2005 rule to reduce or eliminate the disposal of dredged material in Long Island Sound. Thus, EPA cannot rely solely on the DMMP in amending the rule. Rather EPA must amend the rule to establish additional procedures and standards that will result in clear, staged reductions in open-water disposal of dredge material over time. Specifically, NY requests the following:

The goal of the amended rule must remain the same as the 2005 rule "to reduce or eliminate open-water disposal of dredged material in Long Island Sound."

A Steering Committee of high level representatives from the States, EPA, and the Corps should be established and charged with setting a baseline from which to measure how much dredged material has been disposed of in the Sound. Subsequently, the Steering Committee should establish step-downs in the amount of dredged material to be disposed of over time with a mechanism to track those step-downs reductions. Due to the very nature of dredging projects, NY recognizes that there may be fluctuations in annual volumes. NY believes that this type of process will ultimately achieve actual reductions in accordance with the goal of the 2005 rule.

To provide additional surety that the goal will be met, NY requests that an additional provision be included in the rule to provide that if there is an initial failure to maintain or reduce the amount of disposal over the next ten years, as measured at year 10, that the rule can be reopened upon a petition to EPA. This would afford further assurance that the parties successfully work together to meet the goal. For the purpose of the step-downs, NY recognizes that due to the nature of dredge projects there may be "exceptional circumstances" that could result in delay in meeting a step down, but that this should not affect the ten year milestone.

NY supports EPA's proposal to charge the regional dredge team to review each project and require beneficial use of dredged material, where practicable, utilizing the EPA definition of practicable. Ultimately, NY believes that all the parties must work together to find viable alternatives, including identifying possible resources and the removal of regulatory hurdles. NY is willing to do so and commits to work with the parties on two initial pilot projects.

Response:

EPA appreciates New York's commitment to Long Island Sound's environment and suggestions for improving the proposed rule. EPA believes the recommended procedures and standards in the DMMP provide a solid foundation for meeting the long term goal to reduce or eliminate the open-water disposal of dredged material. At the same time, EPA agrees with New York (and Connecticut, see Comment 112) that suggested additions to the Proposed Rule can serve to strengthen the procedures and standards and increase the likelihood of success in meeting the goal.

EPA's responses to NY's specific requests are as follows:

- EPA agrees with New York (and Connecticut, see Comment 112) that the fundamental goal of the state and federal parties since at least 2005 is reduce or eliminate open-water disposal of dredge material in Long Island Sound. EPA used those same words in the proposed rule in the very first paragraph of the "Background" section of the preamble. EPA has used the same language at the outset in the Final Rule. As mentioned above and in the preamble to the Final Rule, EPA has added language to 40 CFR 228.15(b)(4)(vi) to ensure that the overarching goal is clear.
- EPA agrees with New York (and Connecticut, see Comment 112) that it would be useful to establish a Steering Committee, consisting of high level representatives from the states, EPA and USACE. The Steering Committee will provide policy level direction to the Regional Dredging Team and facilitate the type of high-level collaboration among the agencies that will be critical to accelerating the development and use of beneficial alternatives for managing dredged material. The charge to the Steering Committee includes determining a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives, including timeframes, to increase the percentage of beneficially used material, and guiding the RDT's development of accurate methods to track reductions with due consideration for annual fluctuations. EPA expects that each of the agencies will commit the necessary resources to collect the data necessary to support the establishment of the baseline and tracking the future disposition of dredged materials. Whether such commitments will be forthcoming from each agency is, of course, subject to the uncertainties of state and federal budget and appropriation processes.
- EPA is optimistic that the restrictions contained in the Final Rule will be sufficient to make progress toward the goal of reducing or eliminating open-water disposal. However, if the volume of dredged material disposed of at the sites, as measured ten years from now, has increased, it may be an indication that the standards and procedures contained in the Final Rule have not succeed as intended. (There also could be other reasons that dredged material volumes could rise, such as, for example, more frequent large storms.) EPA agrees that it is reasonable to include an explicit provision in the Final Rule that provides any party with the opportunity to petition EPA to reconsider the regulation under these circumstances. EPA has added paragraph (b)(4)(vi)(G) to the Final Rule, to provide for this.
- EPA agrees with New York (and Connecticut, see Comment 112) that when tracking progress, it must be recognized that "exceptional circumstances" may result in delays in meeting an objective.
- EPA agrees that in the context of the RDT reviewing projects or developing alternatives, the idea of practicability provides important additional clarification to the application of the goal.
- EPA agrees that a concerted, collaborative effort by all parties will be needed to spur greater use beneficial use alternatives, including piloting alternatives, identifying possible resources, and eliminating regulatory barriers. As described above, EPA believes that a Steering Committee should guide these efforts, with the support of the RDT, and has included this among the responsibilities of the Steering Committee in the Final Rule.

Comment 117:

The Town of Southold, NY, provided comments focused on the draft DMMP and the associated draft PEIS, considering that these documents provided the basis for EPA's proposed amendments. While recognizing the necessity of dredging, the Town is strongly opposed to further open-water disposal of dredge spoil in Long Island Sound due to the potential adverse impacts to the ecological and economic functions and values and the indirect and direct impacts to the Town.

The Town then reiterates comments and questions on the draft DMMP and PEIS regarding the cost matrix; non-federal projects; the suitability/compatibility of dredged materials; toxicity tests; exposure to ecological and human health; impacts from smaller dredging projects; conflicts with NY State permit for discharges from municipal separate storm sewer systems; failure to assess impacts on marine mammals; failure to adequately assess the potential impacts on commercial and recreational marine species; concern regarding alternatives; and the adverse effects of discharged sediment.

The Town supports: the goal of eliminating the need for open-water placement of dredged material; the beneficial use of dredge spoil in Southold; and EPA recognition of viable alternatives that involve environmentally preferable beneficial use of dredge spoils even if the use of Long Island Sound has been determined to be environmentally acceptable – that is, if alternatives are available at “reasonable incremental cost” they will need to be used.

Response:

The Town's comments and questions regarding the draft DMMP and PEIS do not directly address EPA's proposed amendments. EPA notes that USACE provided responses to the Town's comments when the DMMP and PEIS were finalized in January, 2016. EPA disagrees with the broader suggestion that disposal of dredged material at the sites will have adverse ecological impacts. With the restrictions on the sites as adopted in 2005 and amended by the Final Rule, EPA believes that there will not be adverse impacts to ecological and economic functions and values.

As noted in response to comments by Connecticut and New York, the fundamental goal of the state and federal parties since at least 2005 is reduce or eliminate open-water disposal of dredge material in Long Island Sound. It remains the goal in the Final Rule. EPA appreciates support for the requirement that “practicable” alternatives should be used when they are available. EPA also disagrees that potential effects on marine species, including marine mammals, have not been adequately considered. These issues are discussed in the preambles to both the Proposed and Final Rules.

Comment 118:

The commenter noted that Long Island Sound has been under attack for many years from many sources including the dumping of dredged materials and asserted that dredged materials are known to contain all sorts of toxins from chemicals to heavy metals, plastics, etc. The commenter encouraged looking for another place that is safer to dispose of these dredge materials as they do not belong in water. There needs to be a time limit placed on this practice of dumping in LIS and the sooner it stops completely, the better it will be for the environment.

Response: As discussed above in the response to Comment 78, the proposed amendments would not allow the disposal of toxic or contaminated material at the sites. The goal of reducing or eliminating open-water disposal of dredged materials remains in the proposed amendments and the amendments institute procedures that will lead toward the goal. In response to comments from Connecticut and New York, EPA's Final Rule contains provisions for identification of a baseline for the volume and percentage of dredge material being beneficially used and placed at the open-water sites; establishing a reasonable and practicable series of stepped objectives to increase the percentage of beneficially used

material, including timeframes; and developing accurate methods to track reductions with due consideration for annual fluctuations. (See responses to Comments 112 and 116.)

Comment 119:

The commenter asked that dredging spoils not be dumped in Long Island Sound; it should be the option of last resort. It is worth the extra cost to find a safer home on the land. Identifying alternatives, and using them, would reduce their cost. There are many examples of dredged material being put to good use.

Response: EPA agrees that there are examples of dredged material being put to good use and that identifying and using alternatives would be likely to reduce the cost of using them. The Steering Committee and Regional Dredging Team included in the Final Rule are charged with identifying alternatives and promoting pilot projects aimed to increase the availability of beneficial uses for dredged material. The Final Rule requires that practicable alternatives be utilized.

Commenters, by comment number assigned upon receipt

#	Commenter	Date received
1	Malvin, Ronald	2/20/2016
2	Shamoon, Harry	2/20/2016
3	Johnson, Greg	2/20/2016
4	Wildermuth, Nancy	2/20/2016
5	Gerson, James	2/20/2016
6	Brewer Yacht Yards	2/20/2016
7	Blecher, Steven & Amy	2/21/2016
8	Rowland, George	2/21/2016
9	Vitolo, Dominick	2/21/2016
10	Murphy, F	2/21/2016
11	Brooks, Rhys	2/21/2016
12	Fontanella, Tish	2/21/2016
13	Canter, Richard & Meredith	2/21/2016
14	Fontanella, Joseph	2/21/2016
15	Crawford, George	2/22/2016
16	Helsel, Eric	2/22/2016
17	Sheerin, John	2/22/2016
18	Goldstein, Arnold	2/22/2016
19	Schiff, Debbie & Howard	2/22/2016
20	Miller, Harry	2/22/2016
21	Cavicchio, Rob	2/22/2016
22	Conroy, Matt & C Chesanek	2/22/2016
23	Strauss, David	2/22/2016
24	Stebbins, Lynne & Douglas	2/22/2016
25	Marmer, Jerry	2/22/2016
26	Porcello, John	2/22/2016
27	Steiner, Solomon	2/22/2016
28	Mannuccia, Sal	2/22/2016
29	Knight, Steve	2/22/2016
30	Zajac, Jeffrey	2/22/2016
31	Schoen, Chris	2/22/2016
32	Valentine, Jay	2/22/2016
33	Vasilas, Chris	2/22/2016
34	Kellogg, Amy	2/22/2016
35	Connal, Pete	2/22/2016
36	Costello, Don & Louise	2/22/2016
37	Drake, George & Diane	2/22/2016
38	Lamb, David	2/22/2016
39	Jones, Timothy	2/22/2016
40	Lieblich, Paul	2/22/2016
41	Hartog, Jack	2/22/2016
42	Rappaport, Bill	2/22/2016

43	Giulini, Bruno	2/22/2016
44	Mormino, Matthew	2/22/2016
45	O'Brien, Ed	2/22/2016
46	Valentino, Patrick	2/22/2016
47	Anonymous 1	2/22/2016
48	Riso, Stephen	2/23/2016
49	Lewis, Chris & Deborah	2/23/2016
50	Morrison, Rayon	2/23/2016
51	Counihan, Robert	2/23/2016
52	Hoddinott, Jane & David	2/23/2016
53	England, Sheila	2/23/2016
54	Wade, Steven	2/23/2016
55	Church, Stanley	2/23/2016
56	Evans, Scott	2/23/2016
57	Homer, Glen	2/23/2016
58	Hauser, Tab	2/23/2016
59	Soltz, Robert	2/24/2016
60	Indian Town Association	2/24/2016
61	Bowolick, Thomas	2/24/2016
62	McKeon, Paul & Nancy	2/24/2016
63	Slomkowski, Leon	2/24/2016
64	Catalano, Philip	2/25/2016
65	DeWahl, David	2/25/2016
66	Parker, Andy	2/25/2016
67	Whiting, Robert & Carolyn	2/25/2016
68	Smith, Daniel	2/25/2016
69	Nickl-Weller, Christine	2/25/2016
70	Caspersson, Sten & Martina	2/27/2016
71	Guilford Boat Yard	2/27/2016
72	Spielvogel, David & Lisa	2/28/2016
73	Weicker, Scot	2/28/2016
74	Hyatt, Henry	2/28/2016
75	French, Robert	2/29/2016
76	Lebert, John	2/29/2016
77	Barry, John & Mary Gail	3/1/2016
78	Citizens Campaign 1	3/1/2016
79	Capon, Virginia	3/1/2016
80	Setauket Harbor Task Force	3/1/2016
81	Roel, Ray	3/1/2016
82	Hahn, Kara	3/1/2016
83	Saybrook Point Marina	3/1/2016
84	Village of Asharoken	3/2/2016
85	Furnari, Thomas	3/2/2016
86	Lefferts, Sybil	3/2/2016
87	Spader, David & family	3/2/2016
88	Pomerantz, Paul	3/2/2016

89	Lovito, Andrew & Kenna	3/2/2016
90	Boswell, Rob	3/2/2016
	Greenwich Harbor Management	
91	Commission	3/2/2016
92	CT Harbor Management Assoc	3/2/2016
93	Fairfield County Commodores Assoc	3/2/2016
94	CT Marine Trades Association	3/2/2016
95	Rex Marine Center	3/2/2016
96	Derektor Shipyard	3/2/2016
97	Daniel Natchez and Associates	3/2/2016
98	Citizens Campaign 2	3/2/2016
99	Dumser, Nadine & John	3/3/2016
100	Wachter, Steven	3/3/2016
101	Town of Brookhaven	3/3/2016
102	Anonymous 2	3/4/2016
103	Gose, Evelyn	3/5/2016
104	Judson, Charles	3/7/2016
105	Infantino, Michael	3/9/2016
106	Anonymous 3	3/10/2016
107	Rose, Tina	3/14/2016
108	Spicer's Marina	3/15/2016
109	Village of Northport, NY	3/16/2016
110	Village of Mamaroneck, NY	3/18/2016
111	U.S. Department of Interior	3/24/2016
112	Connecticut DEEP	3/24/2016
113	CT Congressional Delegation	3/24/2016
114	US Army Corps of Engineers	3/24/2016
115	CT Harbor Management Assoc	3/25/2016
116	NYS DOS and DEC	3/25/2016
117	Town of Southold, NY	3/25/2016
118	Bellinson, Susan	3/25/2016
119	Anonymous 4	3/25/2016

Commenters, arrayed alphabetically

Cmt #	
47	Anonymous 1
102	Anonymous 2
106	Anonymous 3
119	Anonymous 4
77	Barry, John & Mary Gail
118	Bellinson, Susan
7	Blecher, Steven & Amy
90	Boswell, Rob
61	Bowolick, Thomas
6	Brewer Yacht Yards
11	Brooks, Rhys
13	Canter, Richard & Meredith
79	Capon, Virginia
70	Caspersson, Sten & Martina
64	Catalano, Philip
21	Cavicchio, Rob
55	Church, Stanley
78	Citizens Campaign 1
98	Citizens Campaign 2
35	Connal, Pete
112	Connecticut DEEP
22	Conroy, Matt & C Chesanek
36	Costello, Don & Louise
51	Counihan, Robert
15	Crawford, George
113	CT Congressional Delegation
92	CT Harbor Management Assoc
115	CT Harbor Management Assoc
94	CT Marine Trades Association
97	Daniel Natchez and Associates
96	Derektor Shipyard
65	DeWahl, David
37	Drake, George & Diane
99	Dumser, Nadine & John
53	England, Sheila
56	Evans, Scott
93	Fairfield County Commodores Assoc
14	Fontanella, Joseph
12	Fontanella, Tish
75	French, Robert
85	Furnari, Thomas
5	Gerson, James

43 Giulini, Bruno
18 Goldstein, Arnold
103 Gose, Evelyn
Greenwich Harbor Management
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71 Guilford Boat Yard
82 Hahn, Kara
41 Hartog, Jack
58 Hauser, Tab
16 Hesel, Eric
52 Hoddinott, Jane & David
57 Homer, Glen
74 Hyatt, Henry
60 Indian Town Association
105 Infantino, Michael
3 Johnson, Greg
39 Jones, Timothy
104 Judson, Charles
34 Kellogg, Amy
29 Knight, Steve
38 Lamb, David
76 Lebert, John
86 Lefferts, Sybil
49 Lewis, Chris & Deborah
40 Lieblich, Paul
89 Lovito, Andrew & Kenna
1 Malvin, Ronald
28 Mannuccia, Sal
25 Marmer, Jerry
62 McKeon, Paul & Nancy
20 Miller, Harry
44 Mormino, Matthew
50 Morrison, Rayon
10 Murphy, F
69 Nickl-Weller, Christine
116 NYS DOS and DEC
45 O'Brien, Ed
66 Parker, Andy
88 Pomerantz, Paul
26 Porcello, John
42 Rappaport, Bill
95 Rex Marine Center
48 Riso, Stephen
81 Roel, Ray
107 Rose, Tina
8 Rowland, George

83 Saybrook Point Marina
19 Schiff, Debbie & Howard
31 Schoen, Chris
80 Setauket Harbor Task Force
2 Shamoan, Harry
17 Sheerin, John
63 Slomkowski, Leon
68 Smith, Daniel
59 Soltz, Robert
87 Spader, David & family
108 Spicer's Marina
72 Spielvogel, David & Lisa
24 Stebbins, Lynne & Douglas
27 Steiner, Solomon
23 Strauss, David
101 Town of Brookhaven
117 Town of Southold, NY
111 U.S. Department of Interior
114 US Army Corps of Engineers
32 Valentine, Jay
46 Valentino, Patrick
33 Vasilas, Chris
84 Village of Asharoken
110 Village of Mamaroneck, NY
109 Village of Northport, NY
9 Vitolo, Dominick
100 Wachter, Steven
54 Wade, Steven
73 Weicker, Scot
67 Whiting, Robert & Carolyn
4 Wildermuth, Nancy
30 Zajac, Jeffrey