

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS

To repeal existing:

- 6 NYCRR Part 360 Solid Waste Management Facilities**
- 6 NYCRR Part 362 State Aid to Municipalities for Planning the Construction or Improvement of Solid Waste Disposal Facilities**
- 6 NYCRR Part 363 State Aid for Planning for Collection, Treatment and Disposal of Refuse**
- 6 NYCRR Part 364 Waste Transporter Permits**
- 6 NYCRR Part 369 Municipal Reduction and Recycling Projects**
- 6 NYCRR Subpart 373-4 Facility Standards for the Collection of Household Hazardous Waste and Hazardous Waste from Conditionally Exempt Small Quantity Generators**

To renumber:

- 6 NYCRR Part 361 Siting of Industrial Hazardous Waste Facilities as Part 377 Siting of Industrial Hazardous Waste Facilities**

To adopt new:

- 6 NYCRR Part 360 Solid Waste Management Facilities**
- 6 NYCRR Part 361 Material Recovery Facilities**
- 6 NYCRR Part 362 Combustion, Thermal Treatment, Transfer and Collection Facilities**
- 6 NYCRR Part 363 Landfills**
- 6 NYCRR Part 364 Waste Transporters**
- 6 NYCRR Part 365 Biohazard Waste Management Facilities**
- 6 NYCRR Part 366 Local Solid Waste Management Planning**
- 6 NYCRR Part 369 State Assistance Projects**

With minor amendments to:

- 6 NYCRR Part 621 Uniform Procedures**
- 6 NYCRR Part 370 Hazardous Waste Management System-General**
- 6 NYCRR Part 371 Identification and Listing of Hazardous Wastes**
- 6 NYCRR Part 372 Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities**
- 6 NYCRR Part 373 Hazardous Waste Management Facilities**
- 6 NYCRR Part 374 Management of Specific Hazardous Waste**

The proposed rulemaking will modify the Department of Environmental Conservation's (Department) existing regulations governing a broad array of solid waste management activities including the transportation of waste, local solid waste management planning, and funding of costs associated with solid waste management, as well as the design and operation of solid waste management facilities.

1. EFFECT OF RULE:

The proposed rulemaking is not expected to negatively affect small business and local governments. The rulemaking primarily updates existing regulatory criteria applicable to solid waste management facilities. If a local government or small business owns and operates a solid waste management facility, the costs associated with revisions to criteria for that facility apply.

2. COMPLIANCE REQUIREMENTS

The proposed rulemaking does not impose additional paperwork requirements for the regulated community. The proposed regulations include criteria to reduce the burden of paperwork by reducing the quantity of information that must be submitted with permit applications and annual reports. Also, the proposed regulations allow electronic submissions whenever possible to ease the transfer of data and information

This proposed rulemaking will not directly impose any significant service, duty or responsibility upon any county, city, town, village, school district, fire district or small business. This proposal does not directly mandate the expenditure of funds by any sector of local government.

3. PROFESSIONAL SERVICES

The need for additional professional services for small businesses and local governments is not anticipated. If a local government or small business is currently operating a solid waste management facility, they may already employ professional services to facilitate the operation of that facility and compliance with the regulatory requirements. The proposed revisions to the regulatory criteria are not expected to increase the level of professional services needed by those entities.

4. COMPLIANCE COSTS

The proposed rulemaking does not impose additional paperwork requirements for most small businesses and local governments who operate solid waste management facilities or waste transportation businesses except for commercial waste transportation in quantities greater than 2000 pounds, and construction and demolition debris in quantities greater than 10 cubic yards. These transporters will be required to register and comply with reporting requirements under Part 364. However, the proposed

regulations include criteria to reduce the burden of paperwork by reducing the quantity of information that must be submitted with permit applications and with annual reports. Also, the proposed regulations allow electronic submissions whenever possible to ease the transfer of data and information. The Department intends to develop new forms to simplify and standardize electronic reporting to ease the paperwork requirements imposed by the proposed regulations. Therefore, there will be no increase in cost for reporting.

This proposal will not impose any direct costs on small businesses or local governments. However, local governments and small businesses may own and operate solid waste management facilities or operate a waste transportation businesses. If a small business or local government owns and operates a solid waste management facility or waste transportation business, the costs associated with compliance with the revised rulemaking, including cost savings, are described below, organized by Part. As outlined below, in some cases the revisions will reduce cost associated with compliance. In others, the cost may increase.

Part 360 General Requirements:

- Clarification of criteria for beneficial use determinations will help small businesses and local governments determine if their waste could be used in a beneficial manner, which could lead to cost savings through the sale of additional reused material.
- Specifying criteria for the use of dredged materials will facilitate the use of appropriate materials and reduce the significant cost associated with disposal.

Part 361 Material Recovery Facilities:

- An exemption for small scale food scrap composting will reduce the cost of management. An increasing the size threshold of a facility requiring registration related to food scraps will have a similar positive effect.
- New standards for the management of wood debris may result in increased cost to a municipality or private firm due to the need for additional land for the quantity of material managed since pile size restrictions are included in the criteria. However, these criteria are not expected to affect most municipalities that have piles of mulch because they do not handle a significant amount of material.
- The registration criteria for used cooking oil and yellow grease will result in decreased costs to a small facility owner since they will not incur the cost of obtaining a permit.

Part 362 Combustion, Thermal Treatment, Transfer and Collection Facilities:

- Permitted transfer facilities from which waste is transported out of state and municipal solid waste processing facilities must install and operate a fixed

radiation detection unit at a location appropriate for the monitoring of all incoming waste. The cost of purchasing this equipment ranges from \$5,000-\$7,000 per unit. The cost of maintenance, including calibration is expected to be \$2,000-\$3,000 annually.

- The registration for the combustion of limited amounts of waste tires, unadulterated wood, used cooking oil and yellow grease under prescribed conditions will result in decreased costs for a small facility owner since they will not incur the cost of obtaining a permit.

Part 363 Landfills:

- Elimination of the requirement to submit a site selection report for new landfill construction will result in cost savings of tens of thousands of dollars to landfill owners in preparation of this report.
- The requirement for adding electrical resistivity testing on the upper and lower liner system as part of a Construction Quality Assurance (CQA) Plan will add cost to the construction of new landfill cells. Costs associated with the requirement are expected to be between \$2,000-\$3,000 per acre of geomembrane tested.
- The regulations require all landfills that receive municipal solid waste to install and operate a fixed radiation detection unit at a location appropriate for the monitoring of all incoming waste. The cost of purchasing this equipment ranges from \$5,000-\$7,000 per unit. The cost of maintenance, including calibration is expected to be between \$2,000-\$3,000 annually.
- The requirement for active collection and destruction of landfill gas for all new MSW landfills and for subsequent development at existing MSW landfills will likely result in increased cost to two small existing municipal landfills in the state which currently do not conduct active collection and destruction of landfill gas if they choose to expand.

Part 364 Waste Transporters:

- There may be an increased cost for transporters that will be required to register and comply with recordkeeping and reporting requirements. There are no fees associated with registration, only minor costs associated with the completion of tracking forms and the completion and submission of an annual report similar to registered facilities.
- There will be a decrease in the cost of compliance for small transporters of regulated solid waste. The amount of material that can be transported without a permit will be increased from 500 to 2000 pounds. Those transporters that

mange between 500 and 2000 pounds will save the cost of permitting under the waste transporter program.

Part 365 Biohazard Waste Management Facilities:

- Most generators choosing to treat RMW or other biohazard waste on-site will incur no additional costs since many, especially those based in healthcare, academic or research institutions already have autoclaves in place for processing their waste. Facilities that choose to treat waste on-site (that currently do not) may incur an initial cost increase to purchase treatment devices, but over the long term, will experience considerable cost savings over transportation and off-site processing costs.
- The regulations add provisions for trauma scene waste and biohazard waste. Although these represent new costs for compliance, the Department has been working for a number of years with entities that generate these wastes to obtain voluntary compliance with these standards.

Part 366 Local Solid Waste Management Planning:

- A reduction in staff time and costs related to the development and reporting requirements to a local government is expected as a result of the changes in the regulations. Small businesses are not subject to the provisions of this Part.

Part 369 State Assistance Projects:

- Small businesses are not subject to the provisions of Part 369. There will be no significant change in cost to a local government located in a rural area.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The rulemaking has been in development for many years and has been subject to significant public review and comment. The Department has focused on revising the regulations in a manner that is technically sound and economical. The proposed regulations that apply to facilities that are currently subject to regulation and the proposed changes are not expected to significantly alter the operation or costs associated with those operations. However, changes in law and technology required the addition of new facility requirements in the regulations, such as vehicle dismantling facilities and facility types that are not currently addressed in the regulations. Addition of these facility requirements should not result in increased costs to these facilities. In some cases, the proposed regulations include reduced regulatory oversight, through expanded exemptions and registration provisions, which will reduce the costs associated with some solid waste facilities and activities.

6. MINIMIZING ADVERSE IMPACTS

The proposed rulemaking is not expected to have adverse impacts on local governments or small businesses in New York State. The updated regulatory criteria for solid waste facilities, such as landfills, are not expected to significantly change the cost of the operation of that facility. Therefore, the residents and businesses will not see an increase in the cost of solid waste management due to the rulemaking.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The proposed rulemaking has been in development for many years. During that time period, the Department has published draft regulations, accepted and evaluated public comments, given public presentations on draft criteria in numerous venues, and met with potentially affected parties. Those solid waste facilities and other affected parties have been solicited for input on the proposed revisions.

8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

Pursuant to SAPA 202-b (1-a)(a) and (b), the proposed rulemaking includes transition provisions that provide adequate time for regulated parties to come into compliance with any new provisions. Otherwise there is no such cure period included in the rule because of the potential for adverse impacts on human health and the environment. Cure periods for the illegal management or disposal of solid waste are neither desirable nor recommended as compliance is required to ensure the general welfare of the public and the environment is protected.

9. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within three years as required by SAPA § 207.