RURAL AREA FLEXIBILITY ANALYSIS

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 solid waste management activities including facilities, waste transporters, local solid waste management planning, and state assistance projects. Since the last revision in 1993, there have been technological, legal, and policy changes that need to be reflected in the regulations. Solid waste management covers a variety of activities, including regulated medical waste and biohazard waste treatment, in addition to landfills and other facilities that are commonly associated with waste management. The Department does not expect the revisions to have a negative economic impact on rural areas.

1. TYPES AND NUMBERS OF RURAL AREAS AFFECTED

The proposed revisions apply statewide, including rural areas of the state. All areas of the state, including rural areas, generate solid waste and will be affected directly or indirectly by the proposed rulemaking.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

The proposed rulemaking does not impose additional paperwork requirements for the majority of facilities affected by this rulemaking, including facilities located in rural areas. The current regulations require annual reports from most solid waste management facilities, and these requirements continue under the proposed regulations. 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 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.

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

If a local government in a rural area chooses to own and operate a solid waste management facility in the State, the proposed rulemaking may require the additional expenditure of funds to comply with the requirements of Parts 360, 361, 362, 363, and 364, which govern those solid waste facilities.

3. COSTS

This proposal will not impose any direct costs on rural areas. However, rural area governments may own and operate solid waste management facilities such as transfer facilities and landfills. If a local government owns a solid waste management facility, the costs associated with compliance with the revised rulemaking are addressed below, organized by Part:

Part 360 General Requirements:

- Clarification of criteria for beneficial use determinations will help local governments

determine if their waste could be used in a beneficial manner, which could lead to cost savings.

- Specifying criteria for the use of navigational 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 is included that will promote additional recycling and reduce the cost of management. An increase in 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 and yard trimmings 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 for 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 of 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 $2,000-$3,000 per acre of geomembrane tested. Based on the known improvement gained in construction quality and liner system performance, it makes sense to perform these evaluations routinely. The cost of performing the electrical resistivity testing on both upper and lower landfill liners will be borne by the landfill owner as part of the cost of constructing a landfill,

but is a small fraction of the overall cost of constructing the entire landfill. Liner integrity testing will help pinpoint defects before construction continues. This will reduce defects overall and will reduce the cost of defect repairs. Furthermore, over 50% of the recent landfill construction projects statewide have been utilizing leak detection and location technology in constructing the upper liner system with good results.

- 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 $2,000-$3,000 annually. Installation of radiation detectors at these facilities is the only means to ensure that radioactive waste will not be disposed of at landfills in the state.

- 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 were to choose to expand. The actual cost of installing, operating, and maintaining a gas collection system varies depending on the size of a landfill. The average capital cost of landfill gas collection systems at municipal solid waste landfills in New York State, including wells, wellheads, pipe collection system, blower, knockout, and flare has been approximately $43,650 per acre. This is greater than the USEPA estimate of $27,667 per acre. Because the landfill gas management state assistance program, which is available to municipally-owned landfills, is a reimbursement system, the entire capital costs must be initially borne by the municipal landfill owner, with 50 percent (up to $2,000,000) eventually reimbursed to the municipality by the State. Annual operating costs can be up to $75,000. These costs do not include any additional expenses that would be required in order to purchase the equipment necessary to generate electricity and hook up to the electrical grid, nor do they take into account any revenues that may be realized by generating electricity.

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 those now prepared by 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 is 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.

Part 369 State Assistance Projects:

- The majority of the action is derived from the present regulatory program as presented in existing Parts 360, 364 and 369 as well as various Department policies and actions which set forth Department interpretation of its authority and responsibility under the ECL to regulate solid waste management facilities in an environmentally protective manner. In most cases, therefore, the ultimate costs associated with complying with the existing regulatory program will be similar to those for the program established under the action.

4. MINIMIZING ADVERSE IMPACTS

The proposed rulemaking is not expected to have adverse impacts on rural areas of New York State. The updated regulatory criteria for solid waste facilities, such as landfills, that may be located in a rural area, are not expected to significantly change the cost of the operation of that facility. Therefore, the rural area residents will not see an increase in the cost of solid waste management due to the rulemaking.

5. RURAL AREA 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 in rural areas have been solicited for input on the proposed revisions.

6. INITIAL REVIEW OF RULE

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