

# LOCAL ROAD PRESERVATION LAW AND PROGRAM

## FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

Prepared for:

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Callicoon, Delaware, Highland, Lumberland & Rockland  
Sullivan County Multi-Municipal Task Force (MMTF),  
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## **1. SUMMARY**

### **1.1 Introduction**

This Final Generic Environmental Impact Statement (“FGEIS”) has been prepared by the Co-Lead Agencies for the Sullivan County Multi-Municipal Task Force (“MMTF”) pursuant to the State Environmental Quality Review Act (“SEQR”), Article 8 of the New York Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 for the proposed adoption and implementation of a Road Preservation Local Law in the Towns of Tusten, Cohecton, Bethel, Callicoon, Delaware, Highland, Lumberland and Rockland, in Sullivan County, New York. The SEQR review of the proposal is being coordinated by the MMTF, being composed of the Towns of Tusten, Cohecton, Bethel, Callicoon, Delaware, Highland, Lumberland and Rockland, in Sullivan County, New York.

The proposal to adopt Road Preservation Local Laws was originally presented to the MMTF member Towns in 2009 and again in May and June of 2010. The proposal was classified as a Type I Action pursuant to section 617.4(b) of the SEQR regulations. The MMTF member Towns assumed SEQRA “Co-Lead Agency” status for the coordinated environmental review of the proposed action and issued a positive declaration, determining that a DGEIS should be prepared in accordance with SEQRA section 617.7.

On or about June 2011, the member Towns accepted the DGEIS as complete, scheduled a SEQRA Public Hearing held on June 30, 2011 and a comment period of 30 days which was extended another 30 days until August 19, 2011. All substantive public comments received are addressed in Section 2.0 of this FGEIS.

### **1.2 Description and Location of the Proposed Action**

The MMTF has been developing and will propose to each of its member Towns the adoption and implementation of a road preservation local law. The local law is being developed by the MMTF and its legal and technical consultants using the authority granted under the NYS Constitution and statutes for municipalities to regulate its roads and engineering highway design and evaluation standards published by the American Association of State Highway and Transportation Officials (“AASHTO”). The AASHTO based program will be used to prospectively assess roadway damage to users that will materially diminish the useful life of roads maintained by the MMTF’s members within their municipal boundaries. AASHTO methods to be used as a basis for the program will include an Equivalent Single Axel Load (“ESAL”) based methodology that provides an objective, broadly recognized engineering standard for use in comparing the structural capacity of an existing road and its normal traffic volume to proposed traffic volumes which exceed normal wear and tear for the road.

The proposed road preservation local law would require non-baseline traffic, as identified in the road protection law and supporting documents, to comply with standards and requirements to use local roads if the proposed non-baseline traffic ESAL load exceeds the

normal wear and tear threshold for the proposed haul route as identified in the road protection law and supporting documents, such that it would likely cause significant damage and shortened pavement life cycle. The application of the standards and requirements of the road preservation local law for such traffic generators would be triggered by non-baseline traffic associated with a number of possible actions regulated by state and local agencies including but not necessarily limited to site plan applications, special use permits, SPDES permits, water withdrawal or wetlands permits, DEC mining or gas drilling permits, etc. The road protection law and supporting documents provide a full list of such actions. Under the law, an applicant would have to identify the number of trips per day they would be making, the size of their anticipated loads, and the route they intend to use.

The proposed action will apply to all municipally owned roads in the Towns of Tusten, Cocheton, Bethel, Callicoon, Delaware, Highland, Lumberland and Rockland, in Sullivan County, New York.

### **1.3 SEQRA Review Process**

The Department's regulations to implement the State Environmental Quality Review Act available at <http://www.dec.ny.gov/regs/4490.html>, authorize the use of generic environmental impact statements to assess the environmental impacts of separate actions having generic or common impacts. A generic environmental impact statement (GEIS) is used to evaluate the environmental effects of a program having wide application and is required for direct programmatic actions undertaken by a government agency.

The DGEIS for the road preservation local law is intended to assess potential adverse impacts which may arise from adoption or implementation of the Road Preservation Local Law in each of the member Towns as well as mitigation measures to avoid or minimize such impacts to the greatest extent possible. Where the Co-Lead Agencies concluded that potential impacts are avoided, reduced or mitigated, the DGEIS contains a clear elaboration to support such a conclusion. The DGEIS for the road preservation local law, together with all the appendices thereto, is hereby incorporated by reference. The complete DGEIS has been available at the Town Clerk's Office in each member Town and on the websites of those Co-Lead Agencies with regularly updated websites.

On June 30, 2011, a public hearing on the DGEIS was held and well attended by the public. Section 2.0 of the FGEIS contains responses to all substantive comments raised during the hearing or received during the public comment period. The transcript of the public hearing and all written comments are contained in Appendix B of this FGEIS.

A generic environmental impact statement and its findings "set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQR compliance." When a final generic environmental impact statement has been filed, "no further SEQR compliance is required if a subsequent proposed action will be

carried out in conformance with the conditions and thresholds established for such actions” in the generic environmental impact statement.

#### **1.4 Changes to the Road Preservation Local Law and Program**

During the course of the Co-Lead Agencies review, some in response to public comments received or otherwise deemed to improve the program by avoiding or mitigating potential significant environmental impacts, certain changes to the proposed local law, road use agreement and supporting manuals were made. These changes were not significant and do not raise any impacts not already analyzed or commented upon.

The revised versions of the proposed local law template, the road use agreement template and both the program and technical manuals are attached to this FGEIS in Appendix C. These changes are briefly summarized below:

- The local law and all program documents eliminated the requirement for a developer to obtain a permit. The local law establishes specific standards and requirements that must be met for concentrated traffic such as it is defined in the law.
- The law does not mandate a developer to enter into a road use agreement but makes such agreements the preferred option to ensure smooth administration of the local law.
- The jurisdictional trigger for concentrated traffic was amended in response to public comments regarding the application of the law to traffic passing over town road to a regulated project in another town. The trigger is no longer tied to the location of the project or destination as such activity is not regulated by this local law. Rather, the nature of the traffic servicing the project and using town roads is now enough to trigger application of the local law. As such, pass through traffic meeting the definition of concentrated traffic or non-baseline traffic must comply with the local law.
- Many public comments were received related to the anticipated gas drilling which will bring substantial concentrated traffic in and around areas where such activity occurs. The regulation and assessment of environmental impacts (except local roads and real property taxes) are solely under the jurisdiction of the NYS Department of Environmental Conservation. Subsequent to the DGEIS and the public hearing the NYSDEC released its Supplemental Generic Environmental impact statement addressing the full scope of such impacts and mitigation measures. As such, the FGEIS does not address such issues as they are outside the scope of the road preservation local law and under the NYSDEC's jurisdiction.
- The Towns are no longer required to determine the haul route for specific developers. Instead, the developer must submit a proposed haul route and related information to the Town and its engineer for evaluation using the standards and criteria of the local law and manuals. Based on the conclusions regarding improvements identified, the developer can

undertake to make such improvements or seek an alternate haul route to avoid or minimize such impacts.

- Safety issues associated with haul routes and improvements will be the responsibility of the municipal program manager (as defined in the program manual) rather than the Engineer. The intimate local knowledge of the roads and usage (with the technical support of the Engineer) offers a more effective way to address such issues.

**APPENDIX A**  
**SEQRA NOTICES**  
**AND RESOLUTIONS**

**APPENDIX B**

**PUBLIC COMMENTS**

B-1 June 30, 2011 Public Hearing Transcript

B-2 Written Comments

Letter dated July 25, 2011 from Jeffrey Allison

Letter dated August 18, 2011 from Karen London

Email dated August 19, 2011 from Bruce Ferguson

Letter dated August 16, 2011 from Jill Wiener

## **APPENDIX C**

### **SUPPLEMENTARY INFORMATION**

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