



**Department of
Environmental
Conservation**

Revised Part 360 Series Solid Waste Management Facility Regulations

NYSAR³ 28th Annual Recycling Conference
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Background

- First major revision in nearly 25 years
- The Part 360 series rulemaking process formally began in February 2016
- Conducted extensive public outreach that included two public comment periods, five public hearings, and more than 25 workshops and technical meetings with stakeholders
- Reviewed and provided responses to thousands of comments.
- The Regulations were published in the State Register and ENB and posted on DEC website on 9/20/17
- **Regulations became effective on 11/4/17**



Part 360 Revised Series Structure

- Part 360 General Requirements
- Part 361 Material Recovery Facilities
- Part 362 Combustion, Thermal Treatment, Transfer, and Collection Facilities
- Part 363 Landfills
- Part 364 Waste Transporters
- Part 365 Regulated Medical Waste and Other Infectious Wastes
- Part 366 Local Solid Waste Management Planning
- Part 369 State Assistance Projects



Section 360.12

Beneficial Use

Part 360 Transition Requirements - BUDs

- Pre-determined BUDs that are no longer included in section 360.12 are no longer in effect 180 days after November 4 2017, but may be eligible for a case-specific BUD
- All BUDs in effect prior to November 4, 2017 are subject to the reporting requirements of Part 360
- All BUDs in effect prior to November 4, 2017 that do not contain a specific expiration date will expire in 180 days unless a renewal is submitted within 180 days



360.12(d) – Case-Specific Beneficial Use Determinations - General

- Case-by-case review for any byproduct or waste material
- Review criteria (“essential nature is use not disposal,” “managed as a commodity,” “will not adversely affect health and the environment,” etc.)
- Lower of 6 NYCRR 375-6.8(b) Protection of Public Health and Protection of Groundwater Soil Cleanup Objectives for soil-like materials placed on the land
- All case-specific BUDs expire no more than 5 years from effective date
- Annual reporting for all case-specific BUDs
- Right to hearing for revocation



Section 360.13

Special Requirements for Pre-Determined Beneficial Use of Fill Material

360.13(c) – Exemption of On-Site Reuse of Fill Material

- Materials excavated at a site can be used anywhere on the site in areas of similar **physical** characteristics
- If contaminated material will be used on a site with public access, minimum of 1 foot of clean soil cover must be placed
- Not applicable to Part 375 program sites



360.13(d) – Testing requirements for Fill Material

- All fill material generated in NYC unless:
 - The quantity is less than 10 cubic yards from one site,
and
 - Does not contain historical evidence of impacts from contamination
- Any fill material outside of NYC that:
 - Exhibits visual or historical evidence of contamination
 - Originates from a site subject to industrial land use
 - If signs of contamination are discovered during excavation

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
General Fill	Any setting where the fill material meets the engineering criteria, for use, except: <ol style="list-style-type: none"> 1. Undeveloped land; and 2. Agricultural crop land. 	Only soil, sand, gravel or rock; no non-soil constituents.	Lower of Protection of Public Health-Residential Land Use and Protection of Groundwater in Table 375-6.8(b) of this Title.

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
Restricted-Use Fill	<p>For embankments or subgrade in transportation corridors, or on sites where in-situ materials exceed Restricted-Use Fill or Limited-Use Fill criteria.</p> <p>Must be placed above the seasonal high water table.</p>	<p>Up to 40 percent by volume inert, non-putrescible non-soil constituents.</p>	<p>General Fill criteria except that up to 3 mg/kg total benzo(a)pyrene (BAP) equivalent.</p> <p>No detectable asbestos.</p>

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
Limited-Use Fill	Under foundations and pavements above the seasonal high water table	No volume limit for inert, non-putrescible non-soil constituents.	General Fill criteria, except up to Protection of Public Health-Commercial SCOs for metals; up to 3 mg/kg benzo(a)pyrene equivalent is allowed. No detectable asbestos.

Part 361

Material Recovery Facilities



Part 361 Material Recovery Facilities

Subpart 361-1 Recyclables Handling and Recovery Facilities

Subpart 361-2 Land Application and Associated Storage Facilities

Subpart 361-3 Composting and Other Organics Processing Facilities

Subpart 361-4 Mulch Processing Facilities

Subpart 361-5 Construction and Demolition Debris Handling and Recovery Facilities

Subpart 361-6 Waste Tire Handling and Recovery Facilities

Subpart 361-7 Metal Processing and Vehicle Dismantling Facilities

Subpart 361-8 Used Cooking Oil and Yellow Grease Processing Facilities

Subpart 361-9 Navigational Dredge Material Handling and Recovery Facilities



Subpart 361-1

Recyclables Handling and Recovery Facilities



361-1 – Recyclables Handling and Recovery Facilities – Exempt & Registered Facilities

Exempt Facilities

- Take-back sites operated by retailers or wholesalers for their products or similar of recycled
- Sites operated by government or not for profit organizations that take-back consumer goods for reuse or secondary marketing

Registered Facilities

- Facilities that accept **250 tons or less per day (weekly basis)** of source-separated nonputrescible recyclables based on a weekly average and have a residue rate below 15%



361-1 – Recyclables Handling and Recovery Facilities

Operating Requirements:

- Only receive source-separated, nonputrescible recyclables
- Recyclables must be stored in a manner which maintains recyclability
- **BUD material can be stored without time restriction so long as storage volumes are not exceeded**
- **Storage of unprocessed/processed recyclables can be longer than 180 days with DEC approval**

Subpart 361-3

Composting and Other Organics Recycling Facilities



361-3 – Composting and Other Organics Recycling Facilities – Exempt Facilities

- On-site (no sanitary)
- < 1000 lbs per week SSO
- < 3000 cubic yards/yr Yard Trimmings
- Animal mortalities on a farm. No more than 10 per year if not on a CAFO
- Animal mortalities on property controlled by State or municipality
- Animal manure and bedding
- On a CAFO (no sanitary)

361-3 – Composting and Other Organics Recycling Facilities – Registered Facilities

- 3000 – 10,000 cubic yards/yr Yard Trimmings
- 5000 cubic yards of SSO per year
- Animal mortalities
- Digestate, if specified

Subpart 361-4

Mulch Processing Facilities

361-4 – Mulch Processing Facilities – Exempt Facilities

- On-site
- Disposal facility for tree debris (Part 363)
- < 10,000 cubic yards provided the pile size criteria are followed and 10 feet is maintained between piles
- Storm debris from a disaster
- Quarantine materials



361-4 – Mulch Processing Facilities – Registered Facilities

- More than 10,000 cubic yards but less than 25,000 cubic yards, provided:
 - A program is in place to keep contaminated wood out
 - The facility does not accept C&D debris
 - Material is processed within 12 months
 - Pile sizes: Unprocessed/Rough Grind: 25' high x 30' wide
Double Grind/ Long Island: 15' high x 30' wide
 - Temperature monitoring, buffers, restacking to avoid temperatures above 140°F, runoff controls

Subpart 361-5

Construction & Demolition Debris Handling and Recovery Facilities



361-5 – C&D Debris Handling and Recovery Facilities – Registered Facilities

Facilities receiving **less than 500 tons/day** (weekly basis) of:

- Concrete, Brick, & Rock
- **Asphalt Pavement or Millings**
- **Asphalt Roofing Shingles (no asbestos)**
- **Gypsum Wallboard**
- Unadulterated, Uncontaminated Wood
- **Uncontaminated Soil**
- **Restricted-Use Soil/Limited-Use Soil (cannot be combined with Uncontaminated Soil)**
- **Case-Specific BUD material derived from C&D Debris**
- **Combination of materials above**



361-5 – C&D Debris Handling and Recovery Facilities (continued)

Operating Requirements:

- Throughput and Storage Volumes according to registration form
- Transportation from **Registered** and Permitted Facility requires Tracking Form - **Fill material & non-BUD material**
- **Sampling of all residue and fill material is required**

Part 366

Local Solid Waste Management Planning



Part 360 Transition Requirements – LSWMP's

- LSWMPs approved prior to November 4, 2017 remain in effect for term of planning period in the approved LSWMP
- Reporting requirements replace any reporting requirements that existed prior to November 4, 2017
- Withdrawal of Local SWMP Approval requirements take effect on November 4, 2017
- Draft LSWMPs submitted to the Department for review but not approved by November 4, 2017, the Department will perform a completeness review within 365 days



366 – Local Solid Waste Management Planning

Public Participation Process

- Prior to submission - 45-day public comments period
- At least 1 public meeting during the public comment period
- Responsiveness summary must be prepared

LSWMP Approval Process

- Department review time frames added
 - 30 day completeness review
 - Upon completeness determination – 1 year to complete the process
 - 120 days – complete draft LSWMP review
 - 60 days – 2nd and subsequent submittals
 - Final LSWMP approved when all documents submitted

366 – Local Solid Waste Management Planning

Subsequent LSWMP

- 180 days prior to expiration, a new draft LSWMP must be submitted

Optional LSWMP Planning Period Extension

- Planning period can be extended two years as part of the biennial LSWMP update – maximum of 5 2-year extensions

Biennial LSWMP Update

- Department can Biennial update submitted no later than **May 1** every other year

LSWMP Withdrawal

- determine LSWMP is no longer in effect
- 30 days to appeal
- Right to a hearing



Part 369

State Assistance Projects



Part 369 – State Assistance Projects

Subpart 369-1 General Provisions

Subpart 369-2 Municipal Waste Reduction, Recycling, Household Hazardous Waste Collection and Beverage Container Assistance Capital Projects

Subpart 369-3 Municipal Waste Reduction and Recycling Education, Promotion, Planning and Coordination Projects

Subpart 369-4 Municipal Household Hazardous Waste Collection and Disposal Projects

Subpart 369-5 Targeted Priority Area Municipal Waste Reduction and Recycling Projects

Subpart 369-6 Nonhazardous Municipal Landfill Closure Projects

Subpart 369-7 Nonhazardous Municipal Landfill Gas Management Projects



Part 360 Transition Requirements – State Assistance Projects – Municipal Waste Reduction & Recycling and HHW Capital Projects

Transition

- Current waiting list expires on the November 4, 2017

For eligible projects on the current waiting list:

- Municipalities have 60 days from November 4, 2017 (i.e., 1/4/18) to submit new application, and if submitted and eligible, will retain their original pre-application date
- If new application is not submitted by January 4, 2018, the project will be eliminated from the waiting list.



369-2 – State Assistance Projects – Municipal Waste Reduction & Recycling and **HHW** Capital Projects

- Applications reviewed in the order received and placed on a waiting list if funding is not available
- Costs must be incurred no more than 1 year before the application date
- Projects must be expected to last 10 years for vehicles and equipment and 30 years for structures
- Projects do not include waste tires, waste oil or C&D debris
- Project must be consistent with department-approved CRA or LSWMP



Part 360 Transition Requirements – – State Assistance Projects – Municipal Waste Reduction & Recycling Education, Promotion, Planning and Coordination Projects

Transition

- Current waiting list expires on November 4, 2017

For projects on the current waiting list:

- If the project is seeking reimbursement for costs already incurred, municipalities have until January 4, 2018 to submit new application, and if submitted and eligible, will retain their original pre-application date
- If the project is seeking reimbursement for costs that will occur, they must submit a new application

369-3 – State Assistance Projects – Municipal Waste Reduction & Recycling Education, Promotion, Planning and Coordination Projects

- Only one application per calendar year for all eligible costs expected to be incurred during that year can be submitted
- Applications must be postmarked during August, September and October each calendar year for anticipated costs during the next calendar year
- Project must be consistent with department-approved CRA or LSWMP
- Project coordinators must be assigned to the project for no less than 50 percent of their full-time schedule for salary costs to be eligible



369-4 – State Assistance Projects – Municipal HHW Collection and Disposal Projects

- Only one application per calendar year for all eligible costs incurred during the previous calendar year can be submitted
- Applications must be postmarked during January and February of each calendar year for costs incurred during the previous calendar year
- Costs incurred for the collection and management of materials that have an established statewide take-back, product stewardship or return program are not eligible



369-5 – State Assistance Projects – Targeted Priority Area Municipal Waste Reduction & Recycling Projects

- The Department may from time to time, upon availability of funding, establish targeted state assistance programs for priority area municipal waste reduction and recycling projects and activities
- The department will issue a notice of availability with individual program requirements
- Applications will be reviewed for eligibility and be rated, ranked, or scored in accordance with the notice
- If the project is selected and is on a current waiting list, it will be removed from that waiting list



Thank you

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