

## SUMMARY OF EXPRESS TERMS

This proposed rulemaking is a comprehensive revision to existing regulations. The existing regulations for solid waste management facilities are currently found in Part 360. A component of this proposed rulemaking is to subdivide the solid waste management facility regulations into groups that are similar in nature, such as facilities that recycle and recover materials. Therefore, the current Part 360 criteria will be found in Parts 360, 361, 362, 363, 365, and 366. The types of facilities covered by each proposed part are described in more detail below and in the express terms themselves. In addition to the solid waste management facilities and activities currently regulated under Part 360, this proposed rulemaking includes revisions to regulations governing waste transportation (Part 364) and state assistance grants to municipalities related to solid waste management (Part 369). This rulemaking will also incorporate minor amendments to Parts 621, 370-374.

### Part 360 General Requirements

Existing Part 360 is repealed and a new Part 360 is proposed which includes the general requirements for all solid waste management facilities. This includes definitions, general exemptions, variance criteria, financial assurance criteria, general permit application and operation standards, and provisions to petition the Department for a jurisdictional determination that a material is not a solid waste through a beneficial use determination (BUD). A new section has been added to address the management of historic fill, including criteria for the on-site use, off-site use, and disposal of the waste, as well as addition of criteria for the reuse of navigational dredged material.

### Part 361 Material Recovery Facilities

Existing 6 NYCRR Part 361 Siting of Industrial Hazardous Waste Facilities is renumbered 6 NYCRR Part 377 Siting of Industrial Hazardous Waste Facilities and a new 6 NYCRR Part 361 is proposed which includes the following subparts addressing 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 Wood Debris and Yard Trimmings Processing Facilities
- Subpart 361-5 Construction and Demolition Debris Processing 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

The addition of the subpart for wood debris was added to address the issues regarding the storage of mulch at facilities by restricting pile size and other criteria to control odor

and fire. A number of issues related to the management of construction and demolition (C&D) debris have resulted in instances of environmental harm, adverse impacts to residents and communities in the State, and significant costs for clean-up of illegal disposal. The Department has evaluated these issues and has implemented several targeted enforcement strategies with limited long-term success. The impediments encountered in these efforts are addressed by a number of revisions related to C&D debris management in the proposal.

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

Existing 6 NYCRR Part 362 State Aid to Municipalities For Planning the Construction Or Improvement Of Solid Waste Disposal Facilities is repealed and a new 6 NYCRR Part 362 is proposed which contains the following subparts:

- Subpart 362-1 Combustion Facilities and Thermal Treatment Facilities
- Subpart 362-2 Municipal Solid Waste Processing Facilities
- Subpart 362-3 Transfer Facilities
- Subpart 362-4 Household Hazardous Collection Facilities and Events

The proposed revisions restrict several source-separated waste streams from being managed in municipal waste combustors or thermal treatment facilities that accept municipal solid waste (MSW). The proposal requires municipal waste combustors, thermal treatment facilities that process MSW, and transfer facilities that transport wastes out-of-state to install and utilize fixed radiation detectors to monitor all incoming waste loads. To increase material recovery, the revisions will allow transfer facilities also authorized as recyclables handling and recovery facilities to accept particular source-separated waste streams for recycling. The current household hazardous waste regulations located in Subpart 373-4 are proposed to be repealed and the requirements of that subpart to be incorporated into this new Part.

### Part 363 Landfills

Existing 6 NYCRR Part 363 State Aid For Planning For Collection, Treatment and Disposal of Refuse is repealed and a new 6 NYCRR Part 363 addressing landfills is proposed. The proposed revisions require active collection and destruction of landfill gas for all new MSW landfills and for subsequent development at existing MSW landfills. Part 363 also includes new language to clarify the responsibilities of landfill owners after landfill closure. Under the proposed revisions, post-closure care activities including leachate collection and treatment; landfill cover maintenance and repair; regular landfill gas, groundwater, and surface water monitoring; and regular inspection must be conducted until the owner or operator can demonstrate to the Department that the landfill's potential threat to public health or the environment has been reduced to a level where environmental monitoring and maintenance can be reduced. The facility manual for a landfill will now include a requirement for a custodial care plan. Throughout both the post-closure and custodial care periods, the owner or operator must maintain financial assurance to ensure that post-closure and custodial care activities will continue.

The amendments address disposal issues which have been problematic since the last major revision of Part 360. Disposal of land clearing debris has become problematic in some areas of the state, creating nuisance odors and reducing the amount of wood wastes that could be directed to reuse or recycling. Therefore, the current registration and exemption for disposal of land clearing debris have been removed and replaced with an exemption for a facility no more than one acre in size for the disposal of tree debris. This exemption will not be available in Nassau and Suffolk counties. Current regulations exempt disposal of certain materials such as uncontaminated concrete and concrete products, asphalt pavement, brick, glass, soil, and rock. There are currently no volume or size restrictions associated with this exemption, and several areas of the state have experienced problems with large-volume exempt disposal sites which have impacted surrounding communities. In addition, non-exempt wastes such as processing residues have been found at exempt sites. The proposed revisions replace the current exemption for the disposal of these materials with an exemption that prohibits disposal of processing residues at an exempt site, and restricts disposal to no more than 5,000 cubic yards of these materials. This exemption will not be available in Nassau and Suffolk counties.

The technical criteria for landfill construction has been updated to incorporated changes in technology and frequently approved variance requests. The proposed revisions require that landfill liner integrity testing be conducted on both geomembrane liners of a double-composite liner system. The proposal will also require that the secondary leachate collection and removal system be designed to a minimum flowrate capacity of 1000 gallons per acre per day to ensure rapid detection of leaks.

A sustainability plan will now be required as a part of all landfill applications. The plan will address operations that will conserve landfill airspace, encourage diversion of natural resources, reduce receipt of organic wastes, utilize alternative operating cover materials, enhance waste mass stabilization, include landfill reclamation techniques, and utilize other sustainable landfill management techniques.

### Part 364 Waste Transporters

Existing 6 NYCRR Part 364 Waste Transporter Permits is repealed and a new 6NYCRR Part 364 Waste Transporters is proposed. The new Part 364 has been revised to operate in concert with new Parts 360, 361, 362, 363 and 365 and to include tracking of wastes that have been a problem or concern such as C&D debris, historic fill, and drilling and production waste, and to exclude the permitting of wastes with little potential harm when transported. The proposed regulation includes a requirement for waste tracking forms for the transport of certain wastes including C&D debris (both to processing or disposal facilities as well as residues from C&D debris processing facilities), drilling and production waste, and historic fill. Regulated medical waste will continue to require a tracking form. Exemptions have been clarified and new exemptions added for electronics destined for recovery, elemental mercury and dental amalgam from dental facilities destined for mercury recovery, and regulated medical

waste transported by emergency rescue vehicles.

#### Part 365 Biohazard Waste Management Facilities

A new Part 365 is proposed to consolidate all the treatment and management of RMW in one location, address all wastes that present a biological hazard and contain the standards for treatment and management of those wastes. This Part includes criteria for regulated medical waste, household medical waste sharps collection, biohazard-incident waste, and animal and contaminated food supply waste. The proposal identifies standards for handling and storage of regulated medical waste at the site of generation and for trauma scene responders, provides operation requirements for autoclave and alternative treatment devices, and provides requirements for sharps consolidation and reusable device sorting.

#### Part 366 Local Solid Waste Management Planning

A new Part 366 Local Solid Waste Management Planning is proposed. The current requirement for updates, modifications and biennial compliance reports for local solid waste management plans (LSWMPs) has been replaced with a requirement for an annual planning unit report, accompanied every other year with a biennial update. These updates will allow for evaluation and adjustment of the LSWMP, taking into account changes that will occur on a routine basis following initial LSWMP approval. Part 366 also clarifies the process in which the public is to be involved in the preparation of an LSWMP to ensure consistent application across the state. The streamlining and reorganization of the LSWMP process is intended to make the preparation and implementation of LSWMPs less complicated for municipalities, yet at the same time assist them in reducing the amount of waste they are disposing and increase the percentages of recyclables removed from the waste stream.

#### Part 369 State Assistance Projects

Existing Part 369 Municipal Waste Reduction and Recycling Projects is repealed and a new Part 369 is proposed addressing state assistance projects. Currently, state assistance programs for municipalities for waste reduction and recycling are guided by the Part 369 regulations. Landfill closure is governed by Subpart 360-9, landfill gas collection is administered through a program policy, and household hazardous waste is covered by Subpart 373-4. These various state assistance programs related to solid waste management will be consolidated into the new Part 369. There has been concern in the past regarding funding of waste reduction and recycling education and coordination projects and positions; the delay in reimbursement to municipalities can be problematic for municipal budgeting, and has even resulted in some municipalities eliminating these important positions. The proposed revisions establish separate funding categories for capital waste reduction, recycling and household hazardous waste projects; waste reduction and recycling education and coordination projects; household hazardous waste collection and disposal; as well as establishment of an annual application process for education/coordination; and household hazardous waste (HHW) collection programs to better control and direct available funding to

municipalities in a timely manner. For the annually funded projects, should insufficient funds be available to provide 50% reimbursement, the department may either lower the percentage or set a dollar maximum on the funding level.

Due to changing technologies and evolving priorities, the department needs to have flexibility to help advance certain waste reduction and recycling activities and projects in the state. In order to accomplish this, the proposed revisions establish a targeted priority area assistance program that the Department can use as needed in accordance with available funding and program needs and priorities.

In order to ensure that funded projects are well thought out and part of a reasonable and structured program consistent with state and local waste reduction and recycling efforts, awarding of state assistance grants will be limited to municipalities guided by approved Local Solid Waste Management Plans (LSWMPs) or Comprehensive Recycling Analyses (CRAs) or those found to be making substantial progress toward completion of an LSWMP or CRA, unless unique circumstances prevent the municipality from completing an LSWMP or CRA in a timely fashion.