

SUMMARY OF CONSOLIDATED REGULATORY IMPACT STATEMENT

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**

INTRODUCTION

The Department of Environmental Conservation (Department) is authorized to promulgate regulations to establish requirements for solid waste management in New York State pursuant to multiple statutes which provide general and specific authority.

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, 366 and 369. This proposed rulemaking also includes revisions to regulations governing waste transportation (Part 364) and state funding of municipal waste reduction and recycling projects (Part 369).

In addition to the amendments to existing Parts 360, 364, and 369, this rulemaking will incorporate minor amendments to Parts 621, 361, 362, 363, 370, 371, 372, 373 and 374 as outlined below:

- The proposed amendments to Part 621, Uniform Procedures specifically address paragraph 621.4(m)(2), which sets forth a list of minor solid waste management facility projects for the purpose of outlining those facilities with little potential environmental impact.
- Existing Parts 362 and 363 are antiquated state aid regulations which are no longer funded or needed and will be repealed and replaced with the proposed Parts 362 and 363.
- Due to the significant reorganization of the existing Part 360 into a series format, minor revisions addressing renumbering will be made to existing Parts 370-374 to ensure appropriate cross references.
- Proposed revisions to existing Part 360 also include removal of existing Subpart 360-14 regulatory criteria for used oil. The regulatory criteria and requirements for used oil will be contained solely in Subpart 374-2, Standards for the Management of Used Oil. Permits for used oil handling facilities will continue to be issued pursuant to Part 360.
- This rulemaking will also include specific amendments to 6 NYCRR Subpart 373-4, Facility Standards for the Collection of Household Hazardous Waste and Hazardous Waste from Conditionally Exempt Small Quantity Generators. Under this rulemaking,

existing Subpart 373-4 is proposed to be repealed and the requirements of that subpart are proposed to be incorporated into the new Subpart 362-4.

In addition, existing Part 361, Siting of Industrial Hazardous Waste Facilities, will be renumbered as Part 377.

1. STATUTORY AUTHORITY

The Department's statutory authority to undertake amendments to Part 360 is found in Environmental Conservation Law Sections 1-0101, 3-0301, 8-0113, Titles 3, 5, 7 and 8 of Article 17, 19-0301, 19-0303, 19-0306, Title 23 of Article 23, Titles 1, 3, 5, 7, 9, 10, 13, 15, 18, 21, 23, 25, 26, 27, 29 of Article 27, 27-1901, 27-1903, 27-1911, 54-0103, Titles 5 and 7 of Article 54, Title 1 of Article 70, 71-2201, Titles 27, 35, 40 and 44 of Article 71, and 72-0502.

2. LEGISLATIVE OBJECTIVES

The overarching legislative objective of ECL Article 27 as it relates to solid waste management is found in ECL Section 27-0703, authorizing the department to:

Adopt and promulgate, amend and repeal rules and regulations governing the operation of solid waste management facilities. Such rules and regulations shall be directed at the prevention or reduction of (a) water pollution, (b) air pollution, (c) noise pollution, (d) obnoxious odors, (e) unsightly conditions, caused by uncontrolled release of litter, and (f) infestation of flies and vermin, and other conditions inimical to the public health, safety, and welfare. In promulgating such rules and regulations, the department shall give due regard to the economic and technological feasibility of compliance therewith. Any rule or regulation promulgated pursuant hereto may differ in its terms and provisions as between particular types of solid waste management facilities and as between particular areas of the state.

3. NEEDS AND BENEFITS

The last comprehensive revisions to the regulations governing solid waste management in New York State occurred 20 years ago in 1993. Many changes in law and technology have occurred in that time period that dictate the need for an overhaul of the regulations at this time. In the last two decades the Department has gained significant knowledge on the proper technical criteria for these facilities and this

knowledge needs to be reflected in the regulations.

Although landfills may be the most obvious solid waste facility to the public when the subject of solid waste management is broached, there are many other facilities that also manage solid waste, from combustors to transfer facilities and commercial medical waste autoclaves. Some of these facility types did not even exist 20 years ago when the regulations were last revised or were much different than they are today. Therefore, new or revised regulations are needed at this time. Each type of facility has its own environmental characteristics and concerns that need to be updated.

For landfills and other solid waste management facilities, updating the regulatory criteria does not mean more stringent criteria in all cases. If Department research and experience has found that a current regulatory requirement is too stringent, the proposed revision will justifiably lessen the burden on the regulated community. In all cases, the goal of the revisions is to ensure that the citizens of New York State are protected by the most up to date and appropriate solid waste management regulations.

In making these revisions, the Department proposes to repeal existing 6 NYCRR Part 360 Solid Waste Management Facilities, Part 362 State Aid to Municipalities for Planning The Construction or Improvement of Solid Waste Disposal Facilities, Part 363 State Aid for Planning for Collection, Treatment and Disposal of Refuse, Part 364 Waste Transporter Permits, and Part 369 Municipal Waste Reduction and Recycling Projects.

Existing Part 361, Siting of Industrial Hazardous Waste Facilities, will be renumbered Part 377. Existing Parts 362 and 363 are antiquated regulations which are no longer needed. Existing 6 NYCRR Part 369 Municipal Waste Reduction and Recycling Projects regulation is proposed to be repealed and replaced with Part 369 State Assistance Projects.

The proposal includes significant reorganization and subdivision of requirements contained in the existing 6 NYCRR Part 360 into a Part 360 series, which will include:

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

In addition, the proposal also repeals and replaces existing 6 NYCRR Part 364 Waste Transporter Permits regulations to incorporate legal and policy developments and experiences gained since the last major revision of these regulations.

Many new or expanded solid waste management facilities, particularly recycling facilities and landfills, have been constructed since the last comprehensive revision in 1993, providing the Department with experience in applying those regulations. This experience has demonstrated that many areas of the regulations would benefit from revision, clarification, or modification to allow for new, technically appropriate alternatives to the design and operation criteria for solid waste management facilities found in the existing regulations, and to streamline the regulatory process.

In December of 2010, the Department adopted a new State Solid Waste Management Plan, entitled *Beyond Waste: A Sustainable Materials Management Strategy for New York State* (<http://www.dec.ny.gov/chemical/41831.html>). This Plan sets forth multiple strategies to reduce the reliance on disposal facilities and increase waste reduction and recycling. The proposed rulemaking addresses the issues outlined in the State Solid Waste Management Plan as well as other relevant issues.

4. COSTS

For a limited number of facilities, such as mulch facilities, the proposed regulations will result in some additional costs for regulated parties, including local governments. For most facilities, no significant change from the current regulatory program costs is anticipated.

Cost to Industry:

The majority of the action is derived from the current regulatory program as presented in existing Part 360 and 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. For the majority of involved industries the costs associated with complying will be similar or less than the costs currently incurred.

Costs to the Department and the State:

The cost to the State lies within the Department, for implementation and administration of the regulatory program. Since this is an existing regulatory program, it is not expected to be a significant increased cost to the Department.

Costs to Local Governments:

This proposal will not impose any direct costs on local governments in general. However, local governments who own and operate solid waste management facilities such as landfills may incur additional or reduced costs associated with the revised rulemaking. With respect to solid waste management planning, no additional costs are anticipated and the proposed revisions are expected to result in a reduction of municipal

expenses and staff time necessary in the preparation of LSWMPs and LSWMP updates.

5. LOCAL GOVERNMENT MANDATES

The proposal does not directly mandate the expenditure of funds by any sector of local government. 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, as discussed in Section 4. The proposed rulemaking is not expected to negatively affect local governments.

6. PAPERWORK

The proposed rulemaking does not impose additional paperwork requirements for the regulated community, with the exception of certain waste transporters. Transporters of C&D debris, historic fill and commercial waste will be required to register under Part 364 and comply with reporting requirements. 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 requirements to ease the paperwork requirements imposed by the proposed regulations.

7. DUPLICATION

The proposed regulations are not intended to duplicate any other federal or State regulations or statutes. There is no federal regulatory program covering most of the facilities governed by Parts 360-365, 366 or 369.

8. ALTERNATIVE APPROACHES

The Department examined the “no-action” alternative, which would be to continue its present method of administering the solid waste management regulatory program. This program consists of existing Parts 360, 364 and 369, Division guidance memoranda, program policies, and interpretation of Division memoranda on solid waste management issues and topics. Continuing this approach would provide the Department with a wide degree of administrative discretion and allow for rapid changes in management to account for recent advances in solid waste management. However, this approach may result in inconsistent application of the program across the State due to variations in the interpretation of Part 360 where other department guidance is not available. Additionally, the rulemaking is one of the key recommendations of the State

Solid Waste Management Plan. For these reasons, the no-action alternative was rejected.

The rulemaking has been the subject of both extensive internal review and public review and discussion for several years. The result of this process is the subject proposed rulemaking that the Department considers protective of environmental resources in a manner that limits the cost to the regulated community. In many cases, the cost to adhere to the regulatory criteria has been reduced without any reduction in environmental protection.

9. FEDERAL STANDARDS

As stated above, there are no federal regulations for most of the facilities contained in the proposed rulemaking. The current and proposed regulations for landfills and biosolids recycling exceed the federal regulatory framework found in 40 CFR Part 258 and 503, respectively.

10. COMPLIANCE SCHEDULE

For new facilities, compliance will be required upon adoption of the final rule. For existing facilities, transition provisions are specified in proposed Section 360.4.

11. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within 3 years as required by SAPA §207.