

REGULATORY AMENDMENTS

6 NYCRR Part 360 Solid Waste Management Facilities is repealed and new 6NYCRR Part 360 is adopted to read as follows:

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 6NYCRR Part 361 is adopted to read as follows:

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Part 362 State Aid to Municipalities For Planning the Construction Or Improvement Of Solid Waste Disposal Facilities is repealed and a new 6 NYCRR Part 362 is adopted to read as follows:

6 NYCRR Part 363 State Aid For Planning For Collection, Treatment and Disposal of Refuse is repealed and a new 6 NYCRR Part 363 is adopted to read as follows:

6 NYCRR Part 364 Waste Transporter Permits is repealed and a new 6NYCRR Part 364 is adopted to read as follows:

A new 6 NYCRR Part 365 Biohazard Waste Management Facilities is adopted to read as follows:

A new 6 NYCRR Part 366 Local Solid Waste Management Planning is adopted to read as follows:

6 NYCRR Part 369 Municipal Waste Reduction and Recycling Projects is repealed and a new 6NYCRR Part 369 is adopted to read as follows:

Paragraph 370.2(b)(93) is amended to read as follows:

(93) "Household hazardous waste collection facility" means any facility or site authorized, under Subpart [373-4] ~~362-4~~ of this Title, to accept household hazardous waste, or waste from conditionally exempt small quantity generators or eligible farmers on a temporary, periodic, or permanent basis.

Paragraph 370.2(b)(166) is amended to read as follows:

(166) "Sanitary landfill" means a land disposal site employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards and meets the design and operation requirements of Parts 360 and 363 of this Title.

Clause 371.1(f)(6)(iii)(‘g’) is amended to read as follows :

(‘g’) a facility authorized by the Department to receive such wastes, pursuant to Subpart [373-4] 362-4 of this Title.

Clause 371.1(f)(6)(iv)(‘a’) is amended to read as follows:

(‘a’) transport the waste themselves pursuant to Part 364 of this Title [(see 6 NYCRR Part 364, subparagraph 364.1(e)(3)(i))]; or

Clause 371.1(f)(7)(iii)(‘g’) is amended to read as follows:

(‘g’) a facility authorized by the Department to receive such wastes, pursuant to Subpart [373-4] 362-4 of this Title.

Clause 371.1(f)(7)(iv)(‘a’’) is amended to read as follows:

(‘a’’) transport the waste themselves pursuant to Part 364 of this Title [(see 6 NYCRR Part 364, subparagraph 364.1(e)(3)(i))]; or

Paragraph 371.1(f)(8) is amended to read as follows:

(8) Hazardous waste subject to the reduced requirements of this subdivision may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitation identified in this subdivision, as long as the mixture meets none of the characteristics of hazardous wastes identified in section 371.3 of this Title, or such mixing occurs at a facility regulated under Subpart [373-4] 362-4 or permitted under Part 373 of this Title.

Paragraph 371.1(f)(10) is amended to read as follows:

(10) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to [Part 360 and] Subpart 374-2 of this Title if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

Subparagraph 371.1(g)(1)(iv) is amended to read as follows:

371.1(g)(1)(iv) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous waste characteristic is not subject to the requirements of Parts 370 through 373, Subpart 374-1 and Part 376 of this Title, but is regulated under Part 364 and Subpart[s 360-14 and] 374-2 of this Title. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.

Subparagraph 371.1(h)(1)(i) is amended to read as follows:

(i) Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in paragraph (2) of this subdivision, is not subject to regulation under Parts 371 through 373, and 376 of this Title. (Note: The discarding of the empty drum or inner liner itself may be subject to the disposal requirements of Part 360 and Part 363 and the transportation requirements of Part 364 of this Title).

Subdivision 372.1(e)(3)(iv) is amended to read as follows:

(iv) the hazardous wastes are transported by the farmer to a household hazardous waste collection facility authorized under Subpart [373-4] 362-4 of this Title, and the farmer is a conditionally exempt small quantity generator as defined in subparagraph 371.1(f)(1) of this Title.

Paragraph 373-1.1(b)(2) is amended to read as follows:

(2) Other regulations relating to hazardous waste management are as follows:

[Part 360 Solid Waste Management Facilities.]

[Part 361] Part 377 Siting of Industrial Hazardous Waste Facilities.

Part 364 [Permits for] Waste Transporters.

Part 370 Hazardous Waste Management System: General.

Part 371 Identification and Listing of Hazardous Wastes.

Part 372 Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities.

Part 374 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.

Part 376 Land Disposal Restrictions.

Part 380 Prevention and Control of Environmental Pollution by Radioactive Materials.

Subparagraph 373-1.1(d)(1)(xviii) is amended to read as follows:

(xviii) Household hazardous waste collection facilities which accept hazardous waste from conditionally exempt small quantity generators or farmers who meet the requirements of 372.1(e)(3)(iv), provided that the program sponsor or owner/operator complies with the requirements of Subpart [373-4] 362-4 of this Title.

Subdivision 373-1.4(c) is amended to read as follows:

(c) Siting certificate requirements. Certain facilities will require a certificate of environmental safety and public necessity pursuant to Title 11 of article 27 of the ECL and Part [361] Part 377 of this Title.

Subpart 373-4 is repealed.

Paragraph 374-2.1(b)(33) is amended to read as follows:

(33) "Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to section 374-2.3(a)(2)(ii) of this Subpart. [Transfer facilities that store used oil for more than 35 days are subject to regulation under section 374-2.6 of this Subpart. A used oil transfer facility is also subject to regulation under Subpart 360-14 of this Title, unless exempt pursuant to the terms of section 360-14.1(b) of this Title.]

Subdivision 374-2.2(a) is amended to read as follows:

(a) Applicability.

This subdivision identifies those materials which are subject to regulation as used oil under this Subpart [and Subpart 360-14 of this Title]. This subdivision also identifies some materials that are not subject to regulation as used oil under this Subpart, and indicates whether these materials may be subject to regulation as hazardous waste under Part 370 through Subparts 374-1, 374-3, and Part 376 of this Title. [In addition to the requirements of this Subpart, used oil generators, collection centers, DIY collection centers, aggregation points, transporters, transfer, storage, re-refining or processing facilities, burners and marketers must meet all applicable requirement of Parts 201, 225, 364, 613, and Subparts 360-1 and 360-14 of this Title that are broader in scope or more stringent than the requirements of this Subpart.]

Paragraph 374-2.2(a)(1) is amended to read as follows:

(1) Used oil. The department presumes that used oil is to be recycled or burned for energy recovery unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in subdivision (b) of this section, the regulations of this Subpart apply to used oil and to materials identified in this subdivision as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in section 371.3 of this Title. Used oil subject to regulation under this subpart is a solid waste as defined under section 360.2 [360-1.2] of this Title

Paragraph 374-2.4(b)(1) is amended to read as follows:

(b) Used oil collection centers.

(1) Applicability. This section applies to owners or operators of used oil collection centers. [which accept used oil from other than household do-it-yourselfers.] A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under section 374-2.3 of this Subpart who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of section 374-2.3(e)(1) of this Subpart. Used oil collection centers may also accept used oil from household do-it-yourselfers.

Subparagraphs 374-2.4(b)(2)(i) and (ii) are amended to read as follows:

(i) comply with the generator [transfer facility] standards in section 374-2.3 [374-2.5] of this Subpart; and

(ii) be registered [permitted] pursuant to Section 374-2.10(a) [Subpart 360-1 and Section 360-14.3 of this Title] of this Subpart; and

A new subparagraph 374-2.4(b)(2)(iii) is added to read as follows:

(iii) comply with the following reporting requirements:

(a) for those that process used oil, the reporting requirements of section 374-2.6(h)(2) that are otherwise applicable to used oil processors/re-refiners; or

(b) for those that do not process used oil, the reporting requirements of section 374-2.6(h)(2) that are otherwise applicable to used oil processors/re-refiners, except for the requirement to provide a summary of the manner in which the used oil is processed as set forth in section 374-2.6(h)(2)(iv)(c).

Paragraph 374-2.5(a)(1) is amended to read as follows:

(1) General. Except as provided in subparagraphs [(1)](i) through [(1)](iv) of this paragraph, [or as exempted in paragraphs 360-14.1(b)(7) or (8) of this Title,] this section applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities. [Owners and operators of used oil transfer facilities must also comply with any applicable requirements of Subpart 360-14 and Part 364 of this Title.]

Paragraph 374-2.5(a)(2) is deleted.

Paragraphs 374-2.5(a)(3 – 5) are re-numbered 374-2.5(a)(2 – 4).

Re-numbered Paragraph 374-2.5(a)(4) is amended to read as follows:

(4) Other applicable provisions. Used oil transfer facilities may be [are] required to obtain a permit in accordance with section 374-2.10(b) of this Subpart. [Subparts 360-1 and 360-14 of this Title, unless exempt under the provisions of section 360-14.1(b) of this Title. Used oil transfer facilities that are subject to permitting under Part 360 of this Title must also comply with the General Facility Standards (including the establishment of a contingency plan) that used oil processing and re-refining facilities are subject to at section 374-2.6(c) of this Subpart.] Used oil transporters who conduct the following activities are also subject to other applicable provisions of this Subpart as indicated in subparagraphs (i) through (vi) [(v)] of this paragraph:

Re-numbered subparagraph 374-2.5(a)(4)(ii) is amended to read as follows:

(ii) transporters who process or re-refine used oil, except as provided in subdivision [2.5](b) of this section, must also comply with section 374-2.6 and subdivision 374-2.10(c) of this Subpart [and Subpart 360-14 of this Title, if applicable];

Re-numbered subparagraphs 374-2.5(a)(4)(iv) and (v) are amended to read as follows:

(iv) transporters who direct shipments of off-specification used oil from their facility to a used oil burner, or who first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in section 374-2.2(b)(1) of this Subpart must also comply with section 374-2.8 of this Subpart; [and]

(v) transporters who dispose of used oil must also comply with section 374-2.9 of this Subpart[.]; and

A new subparagraph 374-2.5(a)(4)(vi) is added which reads as follows:

(vi) used oil transfer facilities that store used oil for 35 days or less, and which do not process used oil, must comply with the reporting requirements of section 374-2.6(h)(2) that are otherwise applicable to used oil processors/re-refiners, except for the requirement to provide a summary of the manner in which the used oil is processed as set forth in section 374-2.6(h)(2)(iv)(c).

Subparagraph 374-2.5(d)(1)(i) is amended to read as follows:

(i) another used oil transporter who has obtained an EPA identification number and who is authorized under Part 364 of this Title to transport used oil[, or a used oil transfer facility which is authorized under Part 360 of this Title, unless exempt under Subpart 360-14 of this Title];

Subdivision 374-2.5(f) is amended to read as follows:

(f) Used oil storage at transfer facilities. Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112, as incorporated by reference in subdivision 370.1(e) of this Title) in addition to the requirements of this section [and Subpart 360-14 of this Title]. Used oil transporters are also subject to the Underground Storage Tank (40 CFR Part 280, as incorporated by reference in subdivision 370.1(e) of this Title) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section.

Paragraph 374-2.5(f)(1) is amended to read as follows:

(1) Applicability. This subdivision applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. [Transfer facilities are subject to regulation under Subpart 360-14 of this Title, unless exempt under that Subpart.] Transfer facilities that store used oil for more than 35 days are subject to regulation as processors under section 374-2.6 of this Subpart.

Paragraph 374-2.6(a)(2) is deleted.

Paragraph 374-2.6(a)(3) is re-numbered 374-2.6(a)(2) and is amended to read as follows.

(2) Other applicable provisions. No person shall construct or operate a used oil processing or re-refining facility unless a permit has been obtained in accordance with section 374-2.10(c). [Subparts 360-1 and 360-14 of this Title.] Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this Subpart as indicated in subparagraphs (i) through (v) of this paragraph.

Paragraph 374-2.6(c)(2) is amended to read as follows:

(2) Contingency plan and emergency procedures. Owners and operators of used oil collection centers, transfer, processing and re-refining facilities must comply with [the requirements of section 360-1.9(h) of this Title and also] the following requirements:

Subdivision 374-2.6(e) is amended to read as follows:

Used oil processors/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112, as incorporated by reference in section 370.1[e] of this Title) in addition to the requirements of this section. [and Subpart 360-14 of this Title.] Used oil processors/re-refiners are also subject to the Underground Storage Tank (40 CFR part 280, as incorporated by reference in section 370.1[e] of this Title) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section.

A new Section 374-2.10 is added to read as follows:

374-2.10 Permitting and registration

(a) Used oil collection centers. Every used oil collection center subject to section 374-2.4(b) must obtain a registration pursuant to section 360.15 of this Title.

(b) Used oil transfer facilities. Every used oil transfer facility must obtain a permit under Section 360.16 of this Title unless the used oil transfer facility meets the conditions set forth in either paragraph 1 or 2 of this subdivision:

(1) A facility whose only activity at a particular site is the transfer of used oil from vehicle-to-vehicle, provided the following requirements are met:

(i) transfer operations are continuously observed;

(ii) a contingency plan meeting the applicable requirements of paragraph 374-2.6(c)(2) is in place in case of an emergency during transfer. The contingency plan must be prepared and certified by an individual licensed to practice engineering in the State of New York;

(iii) the transporters meet all applicable requirements of Part 364 of this Title;

(iv) procedures are established to meet the requirements of paragraph 374-2.6(f)(1) and (3) of this Subpart;

(v) facilities storing beyond 24 hours must also comply with the facility standards of 40 CFR 279, Subpart E, incorporated by reference in Subdivision 370.1(e) of this Title.

(vii) used oil must be stored for 35 days or less, from receipt.

(2) The storage of used oil by a transporter permitted under Part 364 of this Title at such transporter's facility for a period of 10 calendar days or less provided that no transfer, pumping or consolidation of loads occurs. Facilities storing beyond 24 hours must also comply with the facility standards of 40 CFR Part 279 Subpart E, incorporated by reference in Subdivision 370.1(e) of this Title.

(3) Permit application. In addition to the requirements of section 360.16 of this Title, the permit application must include the following information:

(i) A copy of the facility's EPA notification and identification number, obtained in accordance with section 374-2.5(c) of this Subpart.

(ii) The engineering report required under Section 360.16(d)(3) must include:

(a) a description of the types of used oils to be accepted by the facility and the origin of the used oils, and

(b) a flow diagram of the facility, indicating where off-specification and, if applicable, on-specification used oils are individually handled.

(iii) A copy of the quality control plan required under section 374-2.5(e)(2) of this Subpart which will substitute for the waste control plan required as part of the Facility Manual under section 360.16(d)(4)(i).

(iv) A copy of the contingency plan required under subparagraph 374-2.5(a)(5) of this Subpart which will substitute for the emergency response plan required as part of the Facility Manual under subparagraph 360.16(d)(4)(iv).

(v) Documentation of financial assurance in accord section 360.22 of this Title which will secure closure of the facility consistent with the closure plan required by section 360.16(d)(4)(v).

(c) Used oil processors/re-refiners. Every used oil processor/re-refiner must obtain a permit under section 360.16 of this Title:

(1) Permit application. the permit application must include the following additional information:

(i) A copy of the facility's EPA notification and identification number, obtained in accordance with section 374-2.6(b) of this Subpart.

(ii) The engineering report required under section 360.16(d)(3) must include:

(a) a description of the types of used oils to be accepted by the facility and the origin of the used oils, and

(b) a flow diagram of the facility, indicating where off-specification and, if applicable, on-specification used oils are handled.

(iii) A copy of the quality control plan required under section 374-2.6(f) of this Subpart which will substitute for the waste control plan required as part of the Facility Manual under subparagraph 360.16(d)(4)(i).

(iv) A copy of the contingency plan required under section 374-2.6(f) of this Subpart which will substitute for the emergency response plan required as part of the Facility Manual under subparagraph 360.16(d)(4)(iv).

(v) Documentation of financial assurance in accord section 360.22 of this Title which will secure closure of the facility consistent with the closure plan required by section 360.16(d)(4)(v).

(d) Any used oil transfer facility, processor/re-refiner or collection center located at a facility regulated under Part 373 of this Title must be structurally independent of the Part 373 facility operations, in order to be regulated under this Subpart. Facilities having operations regulated under this Subpart and Part 373 of this Title may share joint laboratories, offices, and access roads. However, all used oil storage tanks, piping and appurtenances, processing equipment, and transfer points must be structurally separate from the Part 373 facility. Where tanks or containers regulated under Part 373 share the same containment area or transfer point as used oil tanks or containers, any spills in the containment area or at the same transfer point must be managed as a hazardous waste, unless testing or knowledge is used to determine that the material is not a hazardous waste pursuant to Part 371 and Subpart 374-2.2(a)(2) of this Title.

Subparagraph 374-3.1(c)(1)(ii) is amended to read as follows:

(ii) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program approved by the department, meeting standards set forth in Subpart [373-4] 362-4 of this Title.

Paragraph 621.4(m)(2) is amended to read as follows:

(2) Minor solid waste management facility projects include:

[(i) landfills used exclusively for disposal of construction and demolition debris that are three acres or less in size;]

[(i)] yard [waste] trimming composting facilities receiving less than 100,000 cubic yards annually;

[(i)]ii) transfer [stations]facilities receiving less than [50,000 cubic yards or 12,500] 50 tons of solid waste [annually] per day, provided a maximum of 250 tons or 1000 yards of waste, excluding recyclables, is located at the facility at any given time; [and]

(iii) a composting or organics processing facility subject to the provisions of Subpart 361-3 of this Title located at a landfill, provided the addition of the composting or organics processing facility results in no change in the approved design capacity at the facility;

(iv) construction of subsequent stages of a solid waste management facility, when:

(a) the facility was previously approved to be constructed in stages; and

(b) the environmental impacts associated with the entire facility including the specific proposed stage, were previously addressed in accordance with SEQR.

(v) Research Development and Demonstration Projects regulated under Section 360.18 of this Title.

Paragraph 621.1(o) is amended to read as follows:

(o) Siting of Industrial Hazardous Waste Facilities, ECL article 27 title 11, (implemented by 6 NYCRR Part [361]377);

Paragraph 621.4(o) is amended to read as follows:

(o) Siting of industrial hazardous waste facilities, permits under Part [361] 377 of this Title, and article 27 title 11 of the ECL.

(1) A Part [361] 377 application accompanies a hazardous waste management facility application (Part 373 application) and in order to be complete must include plans, report, draft environmental impact statement and supporting information required by Part [361] 377 of this Title, as well as any supplemental information which the department notifies the applicant is necessary to review the application.

(2) There are no minor projects under Part [361] 377 of this Title.