

SUMMARY OF EXPRESS TERMS

This rulemaking is a comprehensive revision to the State's solid waste management regulations, 6 NYCRR Part 360. The overarching purpose of this rulemaking is to reorganize the existing solid waste regulations and group regulations for facilities that are similar in nature, such as facilities that recycle and recover materials. As a result of this reorganization, existing Part 360 is subdivided into Parts 360, 361, 362, 363, 365, and 366. The facilities covered by each part are described below. This rulemaking also includes many enhancements to the existing rules that reflect the Department's collective experience in regulating solid waste management facilities since the last major update to the regulations. In addition to reorganizing and enhancing Part 360, this rulemaking includes revisions to regulations governing waste transportation (Part 364) and state assistance grants to municipalities for solid waste management (Part 369). This rulemaking also incorporates minor amendments to Parts 621 and Parts 370-374.

Part 360 General Requirements

Existing Part 360 is repealed and a new Part 360 is adopted which includes the general requirements for all solid waste management facilities.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 beneficial use determination (BUD); a jurisdictional determination that a material is not solid waste. Part 360 also includes specific BUD criteria for navigational dredge material and the use of production brine. In addition, the regulations include a new section (360.13) to address the management of fill material, including criteria for the on-site use, off-site use, and disposal of the fill. Many of the definitions in Part 360 represent new terminology based on Department experience. The General Requirements also include transition criteria.

Part 361 Material Recovery Facilities

Existing Part 361 is renumbered as Part 377, and a new Part 361 is adopted which includes Subparts for: Recyclables Handling and Recovery Facilities; Land Application and Associated Storage Facilities; Composting and Other Organics Recycling Facilities; Mulch Processing Facilities; Construction and Demolition Debris Handling and Recovery Facilities; Waste Tire Handling and Recovery Facilities; Metal Processing and Vehicle Dismantling Facilities; Used Cooking Oil and Yellow Grease Processing Facilities; and Navigational Dredged Material Handling and Recovery Facilities.

For recycling and C&D debris processing facilities, the regulations include storage limits for material qualifying for a BUD as well as criteria for the processing and management of materials received. The regulations for Subpart 361-3 include criteria for technologies besides composting including anaerobic digestion and fermentation. Subpart 361-4 includes new criteria for facilities that produce mulch to control fire potential and other potential issues. The criteria include pile size restrictions, temperature monitoring, setbacks, etc. Subparts are also included for waste tire management, metal processing, used cooking oil processing, and dredged material handling and recovery.

Part 362 Combustion, Thermal Treatment, Transfer and Collection Facilities

Existing Part 362 is repealed and a new Part 362 is adopted which contains separate subparts for: Combustion Facilities and Thermal Treatment Facilities; Municipal Solid Waste (MSW) Processing Facilities; Transfer Facilities; and Household Hazardous Collection Facilities and Events.

The regulations restrict several source-separated waste streams from being managed in combustors or thermal treatment facilities that accept MSW. The regulations require 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 incoming waste. To increase material recovery, the regulations will allow transfer facilities also authorized as recyclables handling and recovery facilities to accept particular source-separated waste streams for recycling. The regulations include storage, pile height and stacking requirements for unprocessed and processed waste. The current household hazardous waste regulations located in Subpart 373-4 are repealed and the rules are now included in this new Part.

Part 363 Landfills

Existing Part 363 is repealed and a new 6 NYCRR Part 363 addressing landfills is adopted. The regulations will require that horizontal gas collection systems be installed and require submission of a greenhouse gas reduction plan. Part 363 also includes language to clarify the responsibilities of landfills owners after closure. Under the regulations, post-closure care activities including leachate collection and treatment; landfill cover maintenance and repair; regular landfill gas, water quality monitoring; and regular inspection must be conducted until the owner or operator can demonstrate that the landfill's potential threat to public health or the environment has been reduced to a level where monitoring and maintenance can be reduced. The regulations require a facility manual for a landfill to include a custodial care plan. Throughout both the post-closure and custodial care periods, the owner or operator must maintain financial assurance to ensure post-closure and custodial care activities continue.

The regulations contain several clarifying changes, including the hydrogeologic investigation requirements, addition of a prohibition on the disposal of fluids from oil and gas production, and clarification of landfill reclamation rules. The regulations also include an additional exemption for management of waste from municipal and state highway projects. The regulations contain a limitation on tree disposal facilities to one acre in size in order for such facilities to be exempt from definition as a landfill. This exemption is not available in Nassau and Suffolk counties.

The regulations also include a limit on exempt disposal of materials such as uncontaminated concrete and concrete products, asphalt pavement, brick, glass, soil, and rock. The regulations limit the exemption to no more than 5,000 cubic yards. This exemption is not available in Nassau and Suffolk counties.

The technical criteria for landfill construction has been updated to incorporate technological changes and other frequently varied conditions. The regulations require that landfill liner integrity testing be conducted on both geomembrane liners of a double-composite liner system. The

regulations also require that the secondary leachate collection and removal system be designed to a minimum flowrate to ensure rapid detection of leaks.

Part 363 also requires landfills to submit a sustainability plan with new applications. The plan will address ways to conserve landfill airspace, encourage diversion of natural resources, reduce receipt of organic wastes, utilize alternative operating cover materials, enhance waste mass stabilization, and utilize other sustainable landfill management techniques.

Part 364 Waste Transporters

Existing Part 364 is repealed and a new Part 364 is adopted. The new Part 364 has been revised to operate in concert with new Parts 360-363 and 365 and include tracking of wastes such as C&D debris, historic fill (now defined as fill material), and non-exempt drilling and production waste, and to exclude the permitting of wastes with little potential harm when transported. 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 (RMW) transported by emergency rescue vehicles. The requirements of Part 364 include enhanced tracking fill material leaving New York City, an exemption for waste incidentally transported by a public utility, enhancement of the registration requirements for transporters, and several clarifying changes to avoid overlap with Part 360.

Part 365 Regulated Medical Waste and Other Infectious Wastes

The Department has consolidated the requirements for treatment and management of regulated medical waste (RMW) in one location, and address wastes that present a biological hazard similar to RMW. Newly adopted Part 365 includes criteria for RMW generators, RMW management facilities, and the management of other infectious wastes similar to RMW. Part 365 includes substantial reorganization of the requirements for RMW, and separates the requirements for generators from the requirements for treatment, storage and disposal facilities.

Part 366 Local Solid Waste Management Planning

A new Part 366 is adopted to govern local solid waste management planning. Part 366 clarifies the public's role in LSWMP preparation and approval, as well as the requirements for LSWMP updates, modifications, and biennial compliance reports. 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. The regulations include default approval of plans if the Department does not meet review deadlines, reorganization of the approval process and several changes to the rules for biennial updates and withdrawal of an LSWMP.

Part 369 State Assistance Projects

Existing Part 369 is repealed and a new Part 369 is adopted to address state assistance projects.

Various state assistance programs related to waste management have been consolidated into the new Part 369. The regulations create 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 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 regulations 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 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.