

Summary of Regulatory Impact Statement

This proposed rulemaking is a revision to the Department's existing solid waste regulations which became effective on November 4, 2017. The existing regulations for solid waste management activities and facilities are currently found in Part 360 Solid Waste Management Facilities, Part 361 Material Recovery Facilities, Part 362 Combustion, Thermal Treatment, Transfer, and Collection Facilities, Part 363 Landfills, and Part 365 Regulated Medical Waste and Other Infectious Wastes. In addition to the solid waste management facilities and activities currently regulated under those Parts, this proposed rulemaking includes revisions to regulations governing waste transportation (Part 364), local solid waste management planning (Part 366) and state assistance grants to municipalities related to solid waste management (Part 369).

The Department's statutory authority to undertake amendments to Part 360 is found in Environmental Conservation Law Sections 1-0101, 3-0301, Titles 1, 3, 5, 7, 15, 20, 21, 22 of Article 27, ECL Sections 27-1901, 27-1903, 27-1911, 54-0103, and Title 7 of Article 54.

NEEDS AND BENEFITS

The proposed regulations amend Part 360 Series, Part 371, and Part 377 to meet statutory requirements and the overall goals of properly managing solid waste to protect human health and the environment. This rulemaking is an extension of the comprehensive revision to the Part 360 Series regulations that became effective on November 4, 2017. A Generic Environmental Impact Statement and SEQR Finding Statement were completed as part of that rulemaking and can be found at this

location: <https://www.dec.ny.gov/regulations/118777.html>. 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. This rulemaking continues to address the issues outlined in the State Solid Waste Management Plan and includes measures to further the environmental objectives set out in that Plan.

Statutory changes implemented through this rulemaking include:

- revisions related to ECL Section 15-0517, which requires additional groundwater monitoring and operating requirements at composting facilities, mulch processors, and construction and demolition (C&D) debris facilities on Long Island and prohibit siting of these facilities in mines;
- revisions related to ECL Section 27-0903, which removes the exclusion from the definition of hazardous waste for wastes produced during oil and natural gas exploration and production; and
- revisions related to ECL Section 27-2213, which requires DEC to implement regulations implementing the requirements of Article 27 Title 22 Food Donation and Food Scraps Recycling Law and which set requirements for transfer facilities, municipal waste combustors, and landfills related to diversion of food scraps from solid waste disposal.

In these revisions, adjustments have been made to reduce the regulatory burden in situations where protection of human health and the environment would not be impacted:

- adjusted requirements for C&D debris and excavated material will make it easier to handle and reuse these materials. The regulations continue to contain standards and operating requirements

that protect human health and the environment, and ease operating requirements only at facilities handling inert materials like concrete, asphalt pavement, rock and brick.

- newly added facility types will ease the regulatory burden on waste paint collectors by allowing them to operate under a registration, however, the collections must be operated under the requirements of a department-approved postconsumer paint collection plan and match the objectives of ECL Article 27 Title 20 by minimizing public sector involvement and allowing retailers and other entities to collect postconsumer paint.
- removal of upper throughput limits on registered recyclables handling and recovery facilities will simplify their authorization and will not create significant impacts because only nonputrescible source-separated recyclables can be managed at these facilities.
- seasonal waste collection events conducted by municipalities are authorized under exemption rather than registration or permit, which will not create negative impacts given the small volumes of waste managed during these events.
- regulated medical waste facilities that hold federal authorizations will be allowed to operate under registrations rather than permits, which, since the facilities continue to be regulated by both state and federal agencies, will reduce overly burdensome permitting obligations.
- revisions to waste transporter requirements will ease the regulatory burden of submitting these documents to the department but will not remove the requirement that they be carried with loads of

certain wastes, that copies be returned to the waste generator, or that they be maintained by the transporter for a minimum of three years.

COSTS

Cost to the Regulated Community:

The majority of the criteria in the rulemaking are derived from the current regulatory program in Part 360. In addition, costs may rise in some circumstances based on implementation of state legislation as discussed above. For the majority of involved industries, the costs associated with complying will be similar or less than the costs currently incurred. However, the rulemaking includes many enhancements to the existing program, which will increase costs for some facilities:

-The revisions in Section 360.13 will expanded restrictions on use of Fill Type F5 and grade adjustment materials into Westchester County and the New York City Watershed, which will increase costs for entities who previously have been allowed to use these materials without further Department review and approval. These entities are being required to choose alternatives or petition for a case-specific BUD.

-The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. This is needed for groundwater protection but will increase the cost associated with these facilities. Most new septage storage facilities are tanks, so it is expected that few operations will be affected. The estimated cost for engineering associated with the permit is at about \$10,000.

-The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. This

could potentially result in limiting the life of eight landfills in the state due to their inability to expand, resulting in increased disposal and transportation costs for residences and municipalities in the affected areas. In addition, when a landfill laterally or vertically expands, the landfill adds disposal capacity and for each ton of added disposal capacity the landfill can charge a tip fee for disposal of waste into the expansion area. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.

-The design, construction and certification requirements in Subpart 363-6 will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.

-The design, construction and certification requirements in Subpart 363-6 will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.

-The requirement in Subpart 363-7 for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

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: These regulations 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 regulations as described above. With respect to solid waste management planning, no additional costs are anticipated.

PAPERWORK

The proposed amendments to Subpart 362-1 Combustion and Thermal Treatment Facilities and Subpart 362-3 Transfer Facilities will eliminate the need for a Part 360 registration, thereby eliminating the paperwork associated with obtaining a Part 360 registration and eliminating any recordkeeping and reporting associated with facility monitoring and operational requirements.

-The proposed amendments to Subpart 362-1 Combustion and Thermal Treatment Facilities will require the submission of analytical results associated with ash residue sampling. This is currently required for facilities that are operating under the previous regulations and is required by a permit condition for facilities operating under the current regulations. This is not expected to result in increased paperwork.

-The proposed amendments to Subpart 362-3 Transfer Facilities will reduce the amount of paperwork associated with obtaining a Part 360 permit for facilities transferring septage waste from a single transporter.

-The proposed amendments to Subpart 362-4 Household Hazardous Waste Collection Facilities and Events will reduce the amount of paperwork that needs to be submitted to the Department with the registration application.

-The proposed addition of Subpart 362-5 Paint Collection Sites Collecting Postconsumer Architectural Paint Under a Department-Approved Postconsumer Paint Collection Program will reduce the amount of paperwork that needs to be submitted to the Department for the Part 360 authorization.

-The revisions to Subpart 363-6 to require a double composite liner system for C & D debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills may result in an increase in the amount of paperwork required for reporting and certification.

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 or activities governed by Parts 360 through 365, 366 or 369. There are standards for the design and operation of solid waste landfills in 40 CFR Part 258. The criteria in Part 363 are equivalent to or more stringent than those found in 40 CFR Part 258 and the State has been approved by the United States Environmental Protection Agency (EPA) to implement the federal Part 258 criteria. On June 13, 2019, the Department received notification from the EPA that the November 4, 2017 Part 360 General Requirements and Part 363 Landfill regulations are consistent with the minimum federal requirements established in 40 CFR Part 258. Although New York State does not have an EPA-delegated program

for 40 CFR Part 258 federal regulations, the federal criteria applicable to biosolids recycling were moved to Part 361 in the November 4, 2017 regulation.

ALTERNATIVE APPROACHES

A no action alternative was considered. Without revision to the November 4, 2017 Part 360 series regulations, the Department would have to rely on on-going enforcement discretion and guidance which includes clarification of specific areas of the regulations, especially the regulations which govern C&D debris handling and recovery and the beneficial use of C&D debris. Significant time has been invested in discussing amendments with regulated entities who have concerns with particular provisions of current Part 360, including C&D management, beneficial use of tires on farms, beneficial use of brine on roads, and groundwater quality on Long Island. The Department is proposing amendments to the regulations where it has found that the amendments will increase beneficial use of waste material, will reduce the regulatory burden on the regulated community and simplify compliance with the regulations. For these reasons, the no-action alternative was rejected.

The rulemaking has been the subject of both extensive public review and discussion. The revisions have been discussed with the regulated community in public forums and professional conferences. 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.

FEDERAL STANDARDS

There are no federal regulations for most of the facilities and activities contained in the proposed rulemaking. The current and proposed regulations for landfills and biosolids recycling exceed the federal regulatory framework found in 40 CFR Parts 258 and 503, respectively. The packaging of RMW during transport is regulated by United States Department of Transportation and the appropriate reference is included in Part 365.

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.

INITIAL REVIEW OF RULE

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

CONSOLIDATED REGULATORY IMPACT STATEMENT

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. The proposed regulations govern the full range of activities associated with the handling and disposal of solid waste and will address the funding of costs associated with solid waste management, the development of local solid waste management plans, the transportation of waste, and the design and operation of solid waste management facilities. Solid waste is generated by virtually all public and private entities, including individuals, households, institutions, and businesses. The Department's statutory authority associated with the proposed revisions to the solid waste management regulations is outlined in Section 1 below. Section 2 summarizes relevant legislative objectives, and Section 3 discusses the needs and benefits of the proposed regulations. An assessment of the potential costs associated with the proposed regulations is found in Section 4. Mandates on local government are described in Section 5, while Sections 6 through 8 address the paperwork requirements, whether the regulations duplicate other federal and state programs, and alternatives to the proposed rules. Finally, Sections 9 and 10 describe the applicability of any federal programs to the activities covered by the proposed regulations and the compliance schedule of the proposed rules for the regulated community.

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This rulemaking will also incorporate minor amendments to Part 371 Identification and Listing of Hazardous Wastes and Part 377 Siting of Industrial Hazardous Waste Facilities as outlined below:

- The proposed amendment to subparagraph 371.1(e)(2)(v) addresses a provision in which certain solid wastes are not hazardous wastes. The current provision at 371.1(e)(2)(v) excludes all drilling fluids, produced waters, and other wastes associated with the exploration, development, production of crude oil, natural gas or

geothermal energy from being hazardous wastes. The proposed revision narrows this exclusion to all drilling fluids, produced waters, and other wastes associated with the exploration, development, and production of geothermal energy.

- The proposed amendment to paragraph 371.1(c)(6) provides clarifying language that although certain materials are not solid waste under the hazardous waste definition, when recycled, those materials remain solid waste as defined in Part 360.
- The proposed amendments to clause 371.1(f)(6)(iii)(e) and clause 371.1(f)(7)(iii)(e) address which facilities may accept waste from Conditionally Exempt Small Quantity Generators (CESQGs). The current provision allows CESQGs to send their hazardous waste to permitted Part 360 facilities. The proposed revision allows Part 360 facilities that have a NYSDEC Part 360 permit, license or registration to accept hazardous waste from CESQGs and is consistent with the federal requirements.
- As part of the last comprehensive revision to the 6 NYCRR Part 360 Series regulations in 2017, the former Part 361 was renumbered to Part 377. However, internal references within Part 377 were not updated and in several cases still refer to the former Part 361. These internal references are corrected in this rulemaking.

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, Titles 1, 3, 5, 7, 15, 20, 21, 22 of Article 27, ECL Sections 27-1901, 27-1903, 27-1911, 54-0103, and Title 7 of Article 54.

- ECL Section 1-0101 declares a policy of the State to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution in order to enhance the health, safety and welfare of the people and their overall economic and social well-being.
- ECL Section 3-0301 empowers DEC to adopt regulations as may be necessary to carry out the environmental policy of the State set forth in Section 1-0101.
- ECL Section 15-0517 requires DEC to adopt regulations for Nassau and Suffolk counties to prevent water quality and other environmental impairments resulting from land clearing debris facilities or composting facilities. Those regulations must include water quality monitoring and setback requirements from water resources.
- ECL Article 27, Title 1 empowers the department to regulate the collection, treatment and disposal of solid waste. Section 27-0107(2) provides the authority to promulgate regulations to implement legislative requirements for local solid waste management plans.

- ECL Article 27, Title 3 empowers the department to regulate waste transporters and authorizes the department to issue waste transporter permits. Section 27-0305 authorizes the department to adopt rules and regulations implementing this Title.
- ECL Article 27, Title 5 contains provisions relating to state aid for implementation of resources recovery and improved solid waste management systems. Section 27-0505 authorizes the Department to promulgate rules and regulations to effectively carry out the provisions of this Title.
- ECL Article 27, Title 7 authorizes the department to regulate solid waste management and resource recovery facilities. Section 27-0703 sets forth the powers and duties of the department with respect to solid waste management facilities, including the department's power to adopt rules and regulations governing the operation of solid waste management facilities.
- ECL Article 27, Title 15, contains provisions concerning the storage, treatment, disposal and transportation of regulated medical waste. Section 27-1504 requires the department to promulgate regulations establishing a regulated medical waste tracking program. Section 27-1510 requires the department to promulgate regulations establishing standards applicable to all generators of any quantity of regulated medical waste to protect human health and the environment. Section 27-1511 requires the department to promulgate regulations establishing standards applicable to transporters of regulated medical waste identified or listed under Title 15 of Article 27 to protect human health and the environment. Section 27-1515 requires the department to promulgate rules and regulations in conformity with the standards for storage, containment, transportation and disposal of regulated medical waste and consistent with standards established by the department of health for decontamination and treatment of regulated medical waste pursuant to the provisions of Title 15.
- ECL Article 27, Title 19 provides for the management and recycling of waste tires in the state. Section 27-1903 establishes the state's policy on the management of waste tires and lists the waste tire management priorities of the state, which includes reducing the number of waste tires generated and remediating waste tire stockpiles in noncompliance. Section 27-1911 prohibits the disposal of waste tires in a landfill.
- ECL Article 27, Title 20 provides for establishment of a postconsumer paint collection program. Section 27-2003 requires producers to submit for department approval a plan for establishing a postconsumer paint collection program. Section 27-2005 establishes reporting requirements related to the programs. Section 27-2007 empowers the department to promulgate necessary

rules and regulations and requires the department to post related information on the department's website.

- ECL Article 27, Title 21 regulates mercury-added consumer products. Section 27-2101 defines terms used in in this Title. Section 27-2111 declares that the department shall promulgate and enforce any regulations necessary to implement the provisions of this Title.
- ECL Article 27, Title 22, the Food Donation and Food Scraps Recycling Law, regulates food donation and food scraps recycling. Sections 27-2211 and 27-2213 outline DEC's responsibilities. Section 27-2211 requires the Department to publish the methodology for determining regulated entities, the waiver process, methods to control odors and vectors, and lists of generators and other entities. The Section also requires the Department to regulate organics recyclers to ensure that their activities do not impair water quality or otherwise harm human health and the environment. Section 27-2213 directs the Department to promulgate rules and regulations necessary to implement the provisions of Title 22.
- ECL Article 27, Title 23 (as added by chapter 180 of the laws of 2006) regulates vehicle dismantlers and vehicle dismantling facilities. Section 27-2301 defines terms used in this Title. Section 27-2303 specifies requirements for vehicle dismantlers owning or controlling a facility for the dismantling of end of life vehicles.
- Article 54, Title 7: Section 54-0701 defines the terms used in Title 7 relating to municipal waste reduction or recycling projects. Section 54-0703 provides for commissioner approval of state assistance payments for municipal recycling or waste reduction projects, sets out criteria the commissioner will consider in reviewing applications, and provides for the maximum amount of such payments. Section 54-0705 dictates that the commissioner shall promulgate, in consultation with the director of the budget and the commissioner of economic development, rules and regulations that must include, among other things, criteria for determining eligible expenditures, application procedures, and project approval criteria. Section 54-0707 sets forth procedures for state assistance applications. Section 54-0709 dictates requirements for contracts for state assistance payments for waste reduction or municipal recycling projects.

2. LEGISLATIVE OBJECTIVES

The last comprehensive revision to the 6 NYCRR Part 360 series regulations became effective on November 4, 2017. The revisions in this proposed rulemaking are primarily based on the Department's experience with implementing the existing solid

waste regulations. The Department's experience has shown that revisions and enhancements to both the organization and substance of Part 360 are necessary and appropriate to advance the public policy objectives of ECL Article 27. 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 (i) water pollution, (ii) air pollution, (iii) noise pollution, (iv) obnoxious odors, (v) unsightly conditions, caused by uncontrolled release of litter, (vi) infestation of flies and vermin, and (vii) 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

Part 360 General Requirements

360.2 Definitions

The definition of solid waste is being revised to add several items that will be excluded from the definition of solid waste, such as consumer products intended for reuse in their original function and laboratory samples. These items present a minimal risk to the environment due to the limited quantity managed and the character of the materials.

-A new definition is being added for "Designated Food Scraps Generator". This definition is needed to conform with the Food Donation and Food Scraps Recycling Law enacted in 2019. The law sets forth requirements for how certain large food scraps generators must manage their excess edible food and food scraps. It also contains requirements for transporters, transfer facilities, combustors, and landfills to ensure the separated food scraps reach the required organics recycler.

-Definitions for Commercial Land Use and Industrial Land Use, which support beneficial use determinations for fill and cover materials, are being added to Part 360. Previously Part 360 referenced definitions in Part 375.

-Several new definitions related to soil and fill are being added and existing definitions are being modified or removed:

-A new definition, "Excavated Material," is being added to provide an umbrella term for materials of all sizes, composition and potential usability that may be generated by excavation at a construction or maintenance project and is not needed by the project for backfill.

-The definition of "Fill Material" is being replaced by a definition of "Fill" with the clarification that it is a subset of excavated material consisting of granular, compactible excavated material.

-Five numbered Fill Types are being added to the definitions for the purpose of predetermined beneficial use pursuant to Section 360.13.

-Existing fill definitions including General Fill, Restricted-Use Fill, and Limited-Use Fill, are being removed.

-A new term "inactivation" is being added and defined to mean, for the purpose of Part 365, the rendering of a disease-causing organism harmless to other organisms.

-Definitions describing categories of scrap metal are being added, including "home scrap metal", "processed scrap metal", and "prompt scrap metal.", These definitions are consistent with industry terms and will facilitate the implementation of Part 360.

-A definition for "New York City Metropolitan Area Waste Impact Zone," which includes Nassau County, Suffolk County, the City of New York, Westchester County, and the New York City Watershed, is being added to identify the geographic area where specific requirements in Section 360.13 and Part 364 for the transportation and reuse of excavated material will apply.

-A definition for "suspect asbestos-containing material", which refers to the list of presumed asbestos containing material included in 12 NYCRR 56-5.1(f)(1)(i) and (ii), is being added.

-A new definition of "Traditional Fuel" is being added to Subpart 362-1 to clarify that substances that are considered to be fuels rather than wastes under the department's Air Resources regulations are separate designations from alternative fuel or waste.

-The definition of "under the control" is being amended to include franchise agreements or easements to clarify that these methods are acceptable to allow wastes to be managed as exempt activities at locations under the control of the generator.

-The definition of “vehicle” is being amended, for purposes of Part 364, to include devices which will contain and transport regulated waste. This adjustment is being made to clarify that only vehicles that are used to transport regulated waste must be listed on a Part 364 waste transporter permit.

-The definition of “vehicle dismantling facility” is being amended to include storage of end of life vehicles to be consistent with Subpart 361-7 and the definition in ECL Article 27 Title 23.

360.4 Transition

-Existing Section 360.4 is being repealed and is being replaced with a new Section 360.4 which includes updates to transition dates where appropriate. The new transition requirements are being added to reflect proposed amendments of each of the subparts.

-A provision is being added to allow land clearing debris landfills which were registered with the Department prior to November 4, 2017 to continue to operate until their authorized capacity is utilized. These facilities provide a low-cost public service to their communities and avoid reduction of airspace at MSW landfills.

-A provision is being added for the construction of the first landfill cell for which the department previously approved construction plans and drawings. This first cell must be designed, constructed and certified in accordance with the requirements in the Part 360 effective on the date of that approval. Construction of any subsequent cells must comply with the design, construction and certification requirements of Subpart 363-6.

-A provision is being added to allow landfills to design, construct and certify final cover systems on previously constructed cells in accordance with the requirements in Subpart 363-6. This will eliminate the need for landfills to obtain a variance to reduce the thickness of the barrier protection layer in the final cover system.

360.8 Prohibited Actions

-Two new prohibitions are being added. The first provision prohibits the location of a composting facility, mulch processing facility, or construction and demolition debris handling facility in any mine located on Long Island. This prohibition is needed to protect the sensitive drinking water resources on Long Island. The other provision concerns the acceptance of cannabis waste. Pursuant to New York State Department of Health regulations, only cannabis waste generated by a cannabis processor or business that has been rendered unrecoverable and beyond reclamation can be accepted at solid waste management facilities other than one located at the site of generation.

360.11 Comprehensive Recycling Analysis

-This section is being amended to clarify the information and data pertaining to the waste stream identification, selected alternatives and recyclables recovery program identification, and projection of MSW generated portions of the comprehensive recycling analysis that must be included with the comprehensive recycling analysis.

360.12 Beneficial Use

-Section 360.12(a) Applicability is being amended to state that beneficial use determinations no longer apply to fuels (Subpart 362-1) or to materials used as operational cover or equivalent design in landfills (Section 363-6.21). In addition, solid wastes that do not meet Section 360.12 beneficial use requirements must be processed at a facility that complies with Part 360 solid waste management facility regulations, including exempt facility regulations.

- Subdivision 360.12(a) is being amended to identify the decision criteria the Department will use to determine whether land placement of any material will require a non-specific facility permit rather than a BUD.

-The provision setting a default limit of 365 days for storage of materials under a BUD is being removed. This limit is already addressed for specific materials elsewhere if deterioration of the material is a concern and could hinder the reuse of materials if a longer timeframe to collect a sufficient amount of material is necessary.

-All types of fill material are being addressed in one pre-determined beneficial use for "excavated material" pursuant to Section 360.13.

-The exemption in 360.13(c) for on-site use of excavated materials now appears as a pre-determined use in 360.12(c)(1). This predetermined use is being expanded to also include concrete and concrete products asphalt pavement and millings, and brick generated from demolition of on-site structures, as allowable on-site backfill materials. This provision will aid and encourage responsible and economical on-site management of these materials. Wastes which are excluded from the disposal exemption at 363-2.1(a) are also excluded from this pre-determined BUD.

-The predetermined beneficial use in paragraph 360.12(c)(2) for waste tires on farms to anchor tarps is being modified to clarify how many tires can be used and to allow the use of whole, unaltered tires provided storage methods prevent the collection of water.

-A predetermined beneficial use is being added to paragraph 360.12(c)(2) for unsold fruits and vegetables from farmers' markets and similar events used as animal feed in order to maximize higher value uses of foods and to reduce disposal of food scraps in accordance with the Food Donation and Food Scrap Recycling Law.

-Grade adjustment for site development use of uncontaminated concrete, rock, brick, asphalt pavement or millings, and newly defined Fill Types 1, 2 or 3, separately or mixed, is proposed to be allowed outside of the New York City Watershed, Westchester County, and Long Island under a new predetermined beneficial use. This predetermined use replaces exempt landfilling of these materials pursuant to Part 363, which was limited to 5000 cubic yards per site. Removing this volume limit allows volumes of material that are necessary for grade adjustment projects to be used without arbitrary restriction. De minimis amounts of wood included with these materials are acceptable.

-Two new predetermined BUDs are being added to allow an aggregate product made from concrete, brick, rock and asphalt together for use as subbase – the first predetermined BUD for material produced from a facility regulated under Subpart 361-5 and the second from other sources. This product, often termed “R2” or “contractor blend,” is commonly produced on Long Island and in and around New York City, and it has been difficult to market pursuant to current beneficial use regulations. De minimis amounts of soil or wood with these materials are acceptable. Unlike aggregate products made separately from concrete/ brick/ rock and asphalt pavement/ millings, this mixed aggregate does not cease to be regulated as a waste until it is received at its location of use.

-Language requiring that commercial aggregates made from concrete/ brick/ rock or asphalt pavement/millings meet municipal or State specifications or standards is being removed. These predetermined uses now allow for inclusion of de minimis amounts of soil or wood. The language for these BUDs has been revised to clarify that any necessary processing must be performed at an authorized facility.

-A new predetermined beneficial use is being added for concrete or other masonry products received at a ready-mix plant for incorporation into a concrete product. This use is similar to the existing BUD for asphalt pavement received at an asphalt manufacturing plant.

-A predetermined use is being added for excavated materials managed under a municipally administered soil reuse program under an agreement with the Department. This new BUD will allow successful programs such as the New York City Clean Soil Bank to continue to operate under practices equivalently protective as, though not necessarily identical to, Parts 360, 361 and 364 for management of excavated material.

-Predetermined beneficial use of scrap metal is added to clearly establish that scrap metal which meets a commercial commodity specification for use in an industrial or manufacturing process is no longer a solid waste but instead is a commodity.

-New predetermined BUDs are being included for reuse of dewatered solids and wet slurry generated by concrete grinding slurry operations on road construction or

maintenance projects. Uses include, but are not limited to, commercial aggregate or ingredients in other construction products.

-Language is being added to 360.12(d)(7) to clarify that one-time case-specific BUD uses (e.g., navigational dredge material as grade adjustment fill in a construction project, etc.) do not require renewal after 5 years. The renewal is only required for BUD uses of an ongoing nature where waste continues to be received and reused.

-Chemical concentration criteria for use of oil and gas well brine and LPG storage brine on roads are being modified for constituents to reflect concentrations of minerals in road salt and commercial or manufactured brine. Use for road stabilization, a one-time unpaved road treatment event per year, is no longer subject to these limits but will be reviewed on a case-specific basis. These changes will not diminish environmental protection but will allow appropriate beneficial use of these brines from local gas wells and gas storage facilities. Municipalities must maintain local public roads, whether in winter through ice and snow removal, or in summer, through stabilization and periodic dust control on unpaved roads to keep them passable and protect air quality; these changes will make it possible for municipalities to continue to use low-cost, local sources of production and storage brine that are environmentally protective. Interpretation of laboratory reporting is being clarified, and the deadline for annual reporting is being made consistent with the same for other types of BUDs.

360.13 Special Requirements for pre-determined beneficial use of excavated material

-This section reflects new definitions of Excavated Material and Fill, including various subset Fill Types. Restrictions on the use of general fill, referred to in the proposed revisions as Fill Type 2 or F2, now harmonize with Part 375 land-use categories.

-Language is being added to clarify that excavated material may be sent to an authorized solid waste management facility without consideration of requirements in Section 360.13, but that fill material leaving those facilities must comply with Section 360.13 requirements.

-The exemption for on-site use of excavated material is being moved to and expanded in Section 360.12(c), Pre-determined Beneficial Uses.

-Specific points at which fill is no longer considered solid waste are being clarified and expanded. In general, fill is no longer considered a solid waste when it is delivered to the site of reuse. There are two exceptions to this general rule. The first exception is that Fill Type 1, outside of Nassau or Westchester County, ceases to be a solid waste when a determination that it meets the requirements of Fill Type 1 has been made. The second exception is that Fill Type 2, outside of the New York City Metropolitan Area Waste Impact Zone as defined in Section 360.2, ceases to be a solid waste when a determination that it meets the requirements of Fill Type 2 has been made.

- Requirements for notification are being moved to a new location and clarified to state that only fill transported from the site of excavation directly to the site of reuse requires a notification to the Department. Fill that is transported from an authorized Part 360 solid waste management facility does not require submission of a notification form.

-The requirement that any fill originating from a site with industrial land use designation must be tested prior to reuse is being removed.

-Fill must be sampled for asbestos only if suspect asbestos-containing material is observed by the New York State Department of Labor (NYSDOL) or a NYSDOL certified inspector.

-A new fill type, Fill Type 3, is introduced with these proposed revisions. This fill is similar to Fill Type 2 (general fill) with two exceptions. The first exception is that Fill Type 3 may include de minimis amounts of asphalt or concrete. The second exception is that Fill Type 3 may only be used on residential properties under an impervious surface or under at least three inches of Fill Type 1, Fill Type 2, or commercial soil.

-Fill Type 4 (formerly Restricted-Use Fill) now has no limit for non-soil material and is only distinguished from Fill Type 5 (formerly Limited-Use Fill) by limits on chemical contamination.

-Fill Type 4, when used within Suffolk County, Nassau County, Westchester County or the New York City Watershed, must be generated within the locality where it is used. Fill Type 4 may only be used in Suffolk County if it is generated in Suffolk County, and so forth. Placement of Fill Type 5 is prohibited in the New York City Watershed, Westchester County, Nassau County and Suffolk County.

360.14 Exempt facilities or activities

- Under the current regulations, paragraph 360.14(b)(1) exempts from regulation by the department most types of solid waste management at the site of waste generation. New exclusions to this exemption include composting of most industrial wastes or any animal mortalities or parts, and storage of waste tires. The exclusion for storage of waste tires is being added to avoid a conflict with a separate exemption in this section (see below) for tire storage.

-The exemption for storage of nonputrescible waste on a vehicle is being amended to match 6 NYCRR 372.3(a)(6) and (7).

-The exemption for storage of putrescible wastes on a vehicle is extended to allow storage over a weekend so long as the conditions of the exemption are met. This allows collection vehicles to continue on their routes even if the disposal facility has

closed or in the event that they will continue to collect or consolidate loads on Monday morning.

- An exemption is being added for the transfer of solid waste from vehicle to vehicle for the purpose of consolidating loads as part of the initial collection process. This will allow waste transporters to consolidate loads along the collection route without the need for a Part 360 transfer facility authorization.

- The exemption for handling waste tires is being clarified to include only storage, or storage with transfer, of less than 1000 tires at any one time. Activities beyond storage of waste tires, including tire processing, must meet the requirements of Subpart 361-6 and are not included under this exemption.

360.15 Registered facilities, transporters and collection events

- The requirements to declare the intended storage volume and the maximum throughput limit on a registration form are not applicable for household hazardous waste collection events. The regulations are being amended to explicitly indicate that this information is not required for the household hazardous waste collection event registration.

- Provisions are being added to clarify what documentation must be submitted by applicants for registrations to establish their authorization to conduct business in the State, including conducting business under an assumed name.

360.16 Permit application requirements and permit provisions

- The closure cost estimate must include the costs for the design, materials, equipment, labor, administration, and quality assurance identified for closure of the facility in the closure plan. A requirement is being added for the closure cost estimate to be submitted as part of the closure plan.

- The term “operations and maintenance manual” was used in the previous Part 360. This term is being updated to reflect the new terminology, facility manual.

- Provisions are being added to clarify what documentation must be submitted by permit applicants to establish their authorization to conduct business in the State, including conducting business under an assumed name.

360.19 Operating requirements

- Language is being added to clarify that facilities that have a residential drop-off area for non-commercial vehicles to unload waste and recyclables are not required to provide for additional collection of source-separated recyclables.

-Several facility types are required to obtain and maintain financial assurance in their respective Subparts. An operating requirement is being added to clarify that the department can require financial assurance for any facility, not just the facilities with requirements in the Subparts.

360.22 Financial Assurance

-The cost estimate requirements for facilities other than landfills are being revised to require an adjustment for contingencies and to require department review and approval of the estimates. This will help to assure that the necessary funds are available if the department needs to hire a third party to close the facility.

-Although the United States Environmental Protection Agency (EPA) regulations pertaining to financial assurance requirements indicate that Gross National Product (GNP) should be used, in December 1991 the U. S. Department of Commerce Bureau of Economic Analysis began using Gross Domestic Product (GDP) rather than GNP as the primary measure of U.S. production. Therefore, the reference to Section 373-2.8(c)(2) is being removed. Requirements for adjusting the cost estimate for inflation that reflect this practice have been added.

-Municipalities may require a form of financial assurance for closure of a solid waste management facility. The regulations allow the department to reduce the amount of financial assurance required for purposes of closure under Part 360 by the amount provided to the municipality. The regulations are being revised to clarify these requirements.

-Under the current regulations, the owner or operator of a solid waste management facility can satisfy the financial assurance requirements by establishing a trust fund. The requirements for the trustee of the trust fund are being amended to clarify that documentation must be submitted to the department that indicates that the trustee is authorized by the State of New York, another state, or the federal government to act as trustee. In the event that an attorney is acting as trustee, language is being added to clarify that the attorney must not represent the owner or operator in other legal matters.

-The requirements for the surety bond are being revised to allow owners or operators to use the financial surety fund, instead of a standby trust agreement, for bonds less than \$50,000. This is consistent with the surety bond requirements in paragraph 360.22(d)(2). The revisions will reflect the correct acknowledgements by the principal and the surety company.

-The trust agreement acknowledgements were inadvertently used in the surety bond wording. The acknowledgements for the surety bond are being corrected.

Part 361 Material Recovery Facilities

Subpart 361-1 Recyclables Handling and Recovery Facilities

-The proposed regulations clarify that Recyclables Handling and Recovery Facilities (RHRFs) must receive source-separated recyclables for the purpose of 'processing', not merely for transfer. Facilities that receive recyclables for transfer are regulated under Subpart 362-3, Transfer Facilities. This Subpart further clarifies that RHRFs do not include facilities or portions of facilities that primarily handle scrap metal; these are regulated under Subpart 361-7. These clarifications are necessary to eliminate confusion, but do not change substantive authorization or operating requirements in the current regulations.

-A new exemption is being added in the proposed regulations for RHRFs owned or operated by a municipality or a contractor on a municipality's behalf that accept no more than 20 cubic yards of source-separated recyclables per day and which comply with the operating conditions in this exemption. This exemption is needed to accommodate a common type of drop-off center that municipalities may operate for the convenience of residents.

-The current regulations place a limit on 250 tons per day based on weekly average received at an RHRF for the RHRF to be eligible for registration. Section 361-1.3 is being amended to remove this limit. This amendment leaves the only criteria for registration to be that the facility maintains a 15 percent limit on residue based on a full year of operation, and that the facility complies with operational, recordkeeping and reporting requirements in Part 360 and Subpart 361-1.

-Both the current and proposed regulations exempt facilities accepting no more than five tons per day, based on weekly average, from weighing and recording materials delivered to or leaving the facility. In the current regulations, this exemption was included in registration criteria discussed in Section 361-1.3. In the proposed regulations, Section 361-1.5 Operating Requirements states that only facilities receiving more than five tons per day must weigh and record. This change has the effect of clarifying RHRF registration criteria but continuing to allow small facilities to operate without the requirement of a vehicle scale or other weighing procedure.

Subpart 361-2 Land Application and Associated Storage Facilities

-Both the concentrated animal feeding operation (CAFO) program in the Department's Division of Water and Subpart 361-2 have regulatory jurisdiction over land application of manure on farms. The Department has worked over many years to develop the two regulatory programs so that both programs do not have duplicative regulations over the same activity and that all activities that need to be regulated are covered by one of the regulatory programs. The Department's proposal to require registration for third party appliers is another step in this process. Since current CAFO regulations do not cover

this practice, a proposed revision to Subpart 361-2 requires private companies that apply manure to the land from CAFO to obtain a registration and to comply with the nutrient management plan for the farm. This is a new requirement to address concerns with third party land appliers that may not be following the required land application criteria under the CAFO program. These operations have become much more prevalent in the last few years and could cause water quality concerns if the application does not occur properly.

-The proposed revisions require surface impoundments (lagoons) that store septage to obtain a permit. Under the current regulations, some of these surface impoundments could operate with a registration. Due to the need for engineering design and construction oversight, a permit is the appropriate mechanism for DEC to have appropriate review and oversight for these operations to preclude potential groundwater impacts.

-The proposed revisions remove the exemptions for certain land application and storage facilities on a farm with a certified nutrient management plan (CNMP) that is not a CAFO. Since these farms are not covered by a CAFO permit, there would be no oversight of these operations if they are also exempt from Part 361. Therefore, they will be required to obtain a registration under Subpart 361-2 and comply with applicable operating conditions.

Subpart 361-3 Composting and Other Organics Processing Facilities

-In compliance with recently passed State law, outlined in ECL Article 15, Section 15-0517, groundwater monitoring and protection procedures applicable to Nassau County and Suffolk County were added to the revised regulations. The law requires groundwater monitoring around certain composting facilities located in Nassau County and Suffolk County to protect groundwater resources.

-The proposed revisions implement the statutory requirements for the various uses of digestate from anaerobic digestion. The regulation of the uses will depend on the wastes that enter the digester. Anaerobic digesters can accept a variety of materials, such as manure, food waste, biosolids, etc., and the regulations governing the use of the resultant digestate will depend on the type and quantity of material processed. Clarification was needed due to confusion arising from the criteria in the current regulations.

-The proposed revisions include a clarification of pathogen reduction alternative two. The current regulations limit that option to thermophilic digestion, but clarification obtained from the EPA indicates that this pathogen reduction method can also apply to other treatment processes, such as heat drying. Therefore, the limitation to digestion was removed.

-Biosolids products imported into New York State must comply with the standards applicable to similar products generated in New York State. The proposed revisions include a new provision that allows the department to impose time limits and other criteria on the storage of these products, because they sometimes can be odorous if stored for an excessive time period prior to land application.

Subpart 361-4 Mulch Processing Facilities

-In compliance with recently passed State law, found in ECL Section 15-0517, groundwater monitoring and protection procedures applicable to Nassau County and Suffolk County were added to the revised regulations. Groundwater monitoring is not routinely required for mulch facilities. However, ECL Section 15-0517 requires the department to include these monitoring requirements for most mulch facilities located in Nassau County and Suffolk County.

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

Section 361-5.2 Exempt facilities

-The exemption in 360.14(b)(1) allows waste to be managed at a location under the same ownership or control as the site of generation. However, this exemption does not extend to locations under the ownership or control of contractors who generate wastes during highway construction and who assume responsibility for those wastes as part of their contracted work. To address this situation, the proposed revisions include an exemption that allows the storage of Fill Type 2, Fill Type 3, or recognizable, uncontaminated concrete, asphalt, brick or rock that are anticipated to be reused under a beneficial use determination. The allowed storage of unprocessed materials at the exempt location would be capped at 500 cubic yards within the New York City Metropolitan Waste Impact Zone. Outside the Zone, storage of unprocessed material is capped at 10,000 cubic yards and requires notification to the Department on an annual basis for storage greater than 2500 cubic yards. This proposed exemption will allow contractors to manage highway construction and maintenance wastes according to longstanding industry practice, while limiting this activity in areas where it may have greater adverse or nuisance impacts.

Section 361-5.3 Registered facilities

-Current regulations restrict the amount of material received at a registered Construction and Demolition Debris Handling and Recovery Facilities (CDDHRFs) to less than 500 tons per day. This restriction was established because of concerns with truck traffic associated with a registered facility impacting surrounding communities and because issuance of Part 360 registrations are ministerial actions and do not require State Environmental Quality Review under 6 NYCRR Part 617. The limit is only associated with truck traffic and is not an indication of environmental concern associated with the

materials being managed at the registered facility. However, local municipalities have authority to perform environmental quality reviews associated with development within their jurisdictions, and therefore a separate requirement imposed under the Part 360 series regulations is not necessary. Based on these considerations, the proposed revisions remove the 500 tons per day limit from CDDHRFs.

-The existing regulations require that registered facilities may only accept source separated asphalt, and source separated concrete, rock and brick. These restrictions reflected pre-determined BUDs which required that asphalt be separated from other materials prior to reuse. However, additional pre-determined BUDs are being added as part of this proposed rulemaking to allow combinations of asphalt, concrete, brick, and rock to be utilized. Therefore, it is appropriate to modify the Subpart 361-5 requirements to allow mixed loads of these materials to be received at a registered facility. The proposed revisions include this adjustment.

-The existing regulations include a “clean soil” registration for facilities that receive soil, sand, gravel or rock that exhibits no evidence of contamination. A second current registration allows for receipt of material that meets the definition of restricted-use fill and/or limited-use fill. In an effort to ensure that contaminated excavated material is managed properly and only appropriate excavated material is directed to beneficial use, the proposed revisions adjust the “clean soil” registration to only allow soil received directly from the site of excavation and to exclude soil generated within the City of New York unless the facility is owned or controlled by the City of New York. Excavated material generated within the City of New York would otherwise have to be directed to a permitted CDDHRF. In addition, the proposed revisions remove the registration for restricted-use fill and limited-use fill (or Fill Type 4 and Fill Type 5 under the newly proposed designations), obligating facilities that receive this material to operate under a permit.

-A new registration is being added for storage only of concrete, brick, rock, asphalt pavement, or mixtures of these materials. Operating requirements are reduced, but processing is prohibited. This registration is intended to accommodate the need expressed by the construction industry for storage of these materials at locations convenient to ongoing projects. By not allowing processing at these registered sites, noise and dust impacts to the surrounding community will be minimized.

-The current registration provision for a facility receiving multiple types of waste streams under other registration provisions (a “stacked” registration), is being eliminated in the proposed revisions. This type of “stacked” registration with multiple streams is no longer necessary or appropriate because of the expansion of allowable throughput, and newly proposed combinations of allowable materials at registered facilities in the proposed rulemaking. If the facility is receiving multiple waste streams that individually or in combination do not conform to allowable materials to qualify for a registration, it must obtain a permit.

Section 361-5.5 Design and operating requirements for registered and permitted facilities

-Current regulations require that any fill material or residue leaving a CDDHRF must be analyzed in accordance with Section 360.13 requirements at a minimum of one analysis every 1,000 cubic yards. The proposed revisions retain this frequency for Fill Type 4, Fill Type 5, or residues leaving the facility. Fill Types 4 and 5 are similar to the current Restricted-Use and Limited-Use Fill categories and reflect materials with a significant proportion of non-soil content and elevated concentrations of pollutants. By contrast, the revisions establish a new frequency for Fill Type 2 or Fill Type 3, which consist mostly of natural soils, gravel and rock; for these cleaner streams the proposed revisions would require sampling at a minimum of four times per year though the Department would have the discretion of directing the facility that this sampling be performed at any time during the calendar year. These revisions will reduce the regulatory obligation on facilities that manage these cleaner types of fill while allowing Department discretion to closely monitor fill quality when appropriate.

-As discussed below, the proposed rulemaking removes the CDDHRF-specific waste tracking document included in the current regulation. However, the proposed rulemaking adds an operating requirement for CDDHRFs that clarifies that Part 364 waste tracking documents must be considered facility records and must be maintained under the recordkeeping requirements for the facility.

Section 361-5.6 Recordkeeping and reporting requirements

-Under current regulations, a separate waste tracking document is required for some types of material leaving a CDDHRF. This requirement is in addition to waste tracking document requirements established in Part 364 and has caused confusion and complication with the waste transporting industry. In order to improve the usefulness and efficiency of the waste tracking system, the proposed revisions remove the CDDHRF-specific waste tracking document requirement but leaves in the place the Part 364 requirements.

Subpart 361-6 Waste Tire Handling and Recovery Facilities

-An exemption is being added that allows an owner of a farm to process waste tires in order to produce a product that meets the beneficial use provisions of Section 360.12(c)(2)(iv). This will reduce any unnecessary burden on farmers who cut tires in half or drill holes in tires for use on the farm to secure tarpaulins. Without this exemption, farmers who carried out the activity of processing tires would be required to obtain a permit.

-An exemption is being added for the processing of waste tires at a waste tire stockpile site undergoing abatement pursuant to the New York State Waste Tire Stockpile Abatement Plan for the purpose of producing products meeting any requirements of Parts 360, 362 or 363. This provision may encourage these facilities to process tires in a manner that will allow them to be used pursuant to beneficial use provisions, as fuel, or as alternative operating cover at landfills.

-The operating requirements for registered waste tire handling and recovery facilities to prevent unauthorized access are being amended to be consistent with the operating requirements in Section 360.19. Under the new proposal, in addition from choosing to use fencing, registered waste tire handling and recovery facilities may alternatively use signs, natural barriers, or other suitable means as determined by the department to prevent unauthorized access. This could result in significant potential cost savings to registered facilities.

-The design and operating requirements for permitted Waste Tire Handling and Recovery Facilities are being amended to reduce the limit of storage of tires at facilities where the tires are processed, from the 90-day production capacity allowed under current regulations to no more than the 30-day production capacity of the facility under the proposed rulemaking. For facilities permitted only for storage, the waste control plan must include a market analysis that identifies markets for waste tires. These limitations are intended to better prevent uncontrolled or speculative accumulation of waste tires.

-A requirement for fencing at larger permitted storage facilities is being added, but this addition is consistent with general operating requirements for permitted facilities in Section 360.19, serving primarily to clarify minimum security measures in this context of tire storage.

Subpart 361-7 Scrap Metal Processing and Vehicle Dismantling Facilities

-The exemption for motor vehicle repair shops registered with the New York State Department of Motor Vehicles that store no more than 25 end-of-life vehicles on site at any one time is being expanded to allow the storage of no more than 50 end-of-life vehicles on-site at any one time. This is consistent with the definition of "Vehicle Dismantler" in Title 23 of Article 27 of the ECL. The registration for motor vehicle shops that store between 26 and 50 end-of-life vehicles on-site at any one time is being removed.

-The registration for vehicle dismantling facilities that receive no more than 25 end-of-life vehicles per year and store no more than 50 end-of-life vehicles on-site at any one time is being changed to an exemption to be consistent with the definition of "Vehicle Dismantler" in Title 23 of Article 27 of the ECL.

-A new section 360-7.5 is being added to establish specific operating requirements for scrap metal processors. The section requires all metal shavings and cuttings to be collected inside a building or within a secondary containment area within an impermeable surface. The containment area must be cleaned at a minimum on a weekly basis or at the end of a shift before a precipitation event. All oily liquid must be drained and properly disposed or otherwise managed for reuse as part of the cleaning.

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

-No substantive changes have been made to this Subpart.

Subpart 361-9 Navigational Dredged Material Handling and Recovery Facilities

-The reference to “relocation to other sites” pursuant to the rules for pre-determined beneficial use of excavated material is being removed. Except where excluded or subject to predetermined use in Section 360.12(c), navigational dredged material can only be reused pursuant to a case-specific BUD. While excavated material reuse criteria can guide a case-specific determination for NDM, NDM is not excavated material and will be reviewed for reuse on a case-by-case basis.

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

Subpart 362-1 Combustion Facilities and Thermal Treatment Facilities

-The applicability is being amended to clarify that Part 362 applies to thermal treatment facilities. This resolves the inconsistency between the title of the part and the applicability.

-The exemption and registration provisions related to the combustion of a traditional fuel or an alternative fuel are being amended to clarify that the exemption only applies if the fuel is not stored at the facility prior to combustion. If the fuel is stored at the facility prior to combustion, a registration is required.

-6 NYCRR Part 215 restricts the burning of any material in an open fire, except for those specific instances identified in 6 NYCRR 215.3. All but one of the allowed exemptions and restricted burning practices described in 6 NYCRR 215.3 explicitly or potentially involve solid wastes. 6 NYCRR 360.14(b)(1) exempts from regulation under 6 NYCRR Part 360 a transfer, storage, treatment, processing or combustion facility located at the site of waste generation or at a location under the same ownership or control as the site of waste generation. Therefore, the activities described in 6 NYCRR 215.3(a), (d) and (i), which are described as on-site burning of solid wastes, are excluded from regulation under 6 NYCRR Part 360. The other activities described in 6 NYCRR 215.3(b), (c), (f), (g), (h), (j), (k), and (l) would require a registration or permit because the combustion of solid waste is limited under 6 NYCRR 360.9(a)(1) to facilities authorized to combust

solid waste in accordance with a registration or a permit issued by the department. A primary concern associated with the combustion of solid wastes is air emissions. However, given that the Division of Air, which is responsible for regulation of air emissions from waste combustion, has concluded that the activities identified in 6 NYCRR 215.3 may take place provided such activities are not contrary to other law or regulation, it would be an unnecessary regulatory burden to require 6 NYCRR Part 360 authorization for the same activities. Therefore, an exemption is being added to Subpart 362-1 for facilities that combust solid wastes in conformance with the requirements of 6 NYCRR Part 215.

-The Division of Air Resources considers uncontaminated, unadulterated wood to be a traditional fuel that is not designated pursuant to Part 200 as a refuse. Therefore, the requirement for a facility that only combusts or thermally treats uncontaminated, unadulterated wood to obtain a Part 360 registration is being removed. The combustion of traditional fuel without storage prior to combustion is being added to the existing exemption.

-These revisions remove the requirement that information related to fuel storage, steam generation, and cooling water management be included in the engineering report. This information is not used for compliance with the Part 360 Series regulations, and the change will eliminate the need to unnecessarily report the same data to multiple DEC programs.

-Source separation is the best means of keeping recyclable metals out of municipal solid waste (MSW). However, when MSW is combusted at a municipal waste combustion (MWC) facility, a second opportunity is available to collect metals that were not source-separated. Metals are not destroyed in the combustion process and can be recovered at the MWC facility. Therefore, metals extracted at the MWC facility subsequent to combustion will not be considered part of the facility's approved design capacity to encourage this second opportunity to collect recyclables.

-The requirements for the acceptance of regulated medical waste or pharmaceutical waste are being amended to ensure proper handling of these waste types.

-The regulations are being revised to clarify that a facility can submit a request for approval to the department to reduce the number of parameters required for toxicity characteristic testing and total metals testing of combustor ash residue. This will reduce unnecessary ash testing while providing for periodic verification of the content of the ash residue.

-The regulations are being amended to clarify the laboratory certification requirements and the methods and procedures used for analyses. These requirements will help to ensure consistency among laboratory analyses and accurate waste characterization.

-Requirements are being added for combustion and thermal treatment facilities that receive food scraps as required under the 2019 Food Donation and Food Scraps Recycling Law. The Law sets forth requirements for how certain large food scraps generators must manage their excess edible food and food scraps and contains requirements for transporters, transfer facilities, combustors, and landfills to ensure the separated food scraps reach the required organics recycler. As the Law is implemented, revisions to Subpart 362-1 may be needed.

-The regulations are being amended to require the submission of analytical results associated with the ash residue sampling. This requirement existed in the previous regulations and is standard practice for these facilities. A clarification is being added to require the results of all ash residue analyses that is performed for purposes of compliance with subdivision 362-1.5(c) and the facility's residue sampling and analysis plan required under paragraph 362-1.4(c)(4).

Subpart 362-2 Municipal Solid Waste Processing Facilities

-The applicability is being amended to be consistent with the format of the other Subparts in Part 362.

Subpart 362-3 Transfer Facilities

-Facilities that transfer regulated medical waste are regulated under Part 365 and facilities that transfer used oil are regulated under Subpart 374-2. The applicability section for transfer facilities is being amended to clarify that these types of facilities do not also need to comply with Subpart 362-3.

-The requirements for facilities that transfer source-separated recyclables are being amended to simplify the Part 360 authorization process. The exemption for municipal facilities that transfer no more than 20 cubic yards of waste per day is being amended to allow the facility to also transfer up to 20 cubic yards of source-separated recyclables per day. This will encourage small municipal transfer facilities to also manage source-separated recyclables without the need for a Part 360 authorization.

-An exemption is being added for municipal transfer facilities that receive no more than 3,000 tons per year of yard trimmings provided the facilities meet the specified criteria. This exemption will encourage municipalities to properly manage yard trimmings by eliminating the Part 360 registration, operating, and reporting requirements for these facilities.

-An exemption is being added for municipal transfer facilities that accept waste no more than five days per year provided that the facilities meet the specified criteria. This exemption will eliminate the Part 360 registration, operating, and reporting requirements for municipalities that hold seasonal collection events.

-The operating requirement for the removal of waste from a registered municipal transfer station is being amended to ensure the waste is removed from the facility in a timely manner to prevent odors.

-The operating requirement for the collection of source-separated recyclables is being amended to consider alternative recyclables collection methods being used by municipalities.

-Subpart 362-3 is being amended to add a registration requirement for facilities that transfer septage waste from a single transporter using no more than two vehicles for the collection of residuals from a composting toilet. Facilities will be allowed to operate under a registration rather than a permit, thereby reducing the costs and requirements associated with the Part 360 authorization process. In addition, design and operating requirements are being added to this Subpart for those facilities that handle septage waste.

-A registration is being added for facilities that receive source-separated recyclables. This registration currently exists in Subpart 361-1. Moving the registration requirements to Subpart 362-3 will simplify the Part 360 authorization process.

-Subpart 362-3 is being amended to add requirements for transfer facilities that receive food scraps as required under the 2019 Food Donation and Food Scraps Recycling Law. The Law sets forth requirements for how certain large food scraps generators must manage their excess edible food and food scraps and contains requirements for transporters, transfer facilities, combustors, and landfills to ensure the separated food scraps reach the required organics recycler. As the Law is implemented, revisions to Subpart 362-3 may be needed.

Subpart 362-4 Household Hazardous Waste Collection Facilities and Events

-The applicability section is being amended to be consistent with the format of the other Subparts in Part 362.

-The site plan will be required to be available on-site during the household hazardous waste collection event rather than being submitted with the registration application. This simplifies the household hazardous waste collection event registration process by reducing the information that needs to be submitted to the department.

Subpart 362-5 Paint Collection Sites Collecting Postconsumer Architectural Paint Under A Department-Approved Postconsumer Paint Collection Program

-With the adoption of the Postconsumer Paint Collection Program Law, producers of architectural paint are required to implement a Postconsumer Paint Collection Program (PPCP) in accordance with a plan approved by the Department. Title 20 of Article 27 of the ECL explicitly requires a PPCP to minimize public sector involvement in paint

collection and envisions that retailers who sell architectural paint, as well as reuse stores, may voluntarily collect postconsumer paint at their retail locations. The collection and transfer of source-separated, non-hazardous postconsumer paint is exempt from the Part 360 registration and permitting requirements in Subpart 361-1. However, some postconsumer paint meets the definition of household hazardous waste or conditionally exempt small quantity generator (CESQG) waste. Current regulations require facilities that accept household hazardous wastes from households and/or CESQGs to comply with the applicable registration and permitting requirements in Subpart 362-4. To help foster the collection and recycling of all unwanted postconsumer paint, a new Subpart is being added to allow sites that are collecting and storing postconsumer architectural paint from households and CESQGs pursuant to a department-approved PPCP plan to register with the department instead of obtaining a permit.

Part 363 Landfills

Subpart 363-2 Exempt Facilities

-Subpart 363-2 allows for the storage, processing, and disposal of solid waste generated from farm-related activities provided all storage, processing and disposal occurs on a farm. The regulation is being amended to restrict the disposal of animal mortalities to ensure groundwater protection.

-Subpart 363-2 is being amended to remove the exemption for disposal of up to 5,000 cubic yards of concrete, asphalt, brick, glass, rock and general fill originating from construction or demolition sites. The change makes Part 363 more consistent with the regulation of similar C&D debris in other portions of the regulations including Subpart 361-5. The addition of a grade adjustment pre-BUD in Section 360.12 provides an alternative management approach for these materials and does not include a maximum volume.

-The disposal of certain types of waste generated by state or municipal highway projects and managed on highway rights-of-way or municipally owned properties is exempt from the Part 363 regulations if the specified conditions are met. The list of exempt facilities is being amended to be consistent with the revisions to the regulation of similar C&D debris in Section 360.12 and Subpart 361-5.

-An exemption is being added for disposal within a state, municipal or utility right-of-way of tree debris generated by the clearing of the right-of-way. Since the tree debris does not pose any adverse impacts to human health or the environment, this will facilitate the maintenance of a right-of-way without imposing added costs for tree debris removal.

Subpart 363-3 Inactive Disposal Facilities

-The end use requirements in Section 363-9.7 apply to all landfills that closed prior to November 4, 2017. Language is being added to clarify that the inactive disposal facilities regulated under Subpart 363-3 must also comply with these end use requirements.

Subpart 363-4 Permit Application Requirements

-Language is being added to the structural integrity and overall slope stability analysis requirements to clarify the design considerations that must be submitted as part of this analysis.

-As of November 4, 2017, Part 363 reduced the acceptable displacement of a liner system component from 12 inches to 6 inches. However, to match the decreased displacement threshold, the requisite seismic coefficient should have been increased from 0.5 to 0.75 of the free field peak ground acceleration at the site of the design earthquake. This coefficient is being amended to reflect the conservative nature of New York State's MSW landfill liner requirements and to be consistent with the industry's standard of practice for designing critical containment systems such as landfill liner systems. Failure of a landfill liner system because of an earthquake can result in a massive breach of the liner system and threaten the quality of ground water in the area and should be avoided by proper design.

-The engineering report must include a description of the how the components of the landfill liner and leachate collection and removal system will allow for the effective monitoring of leachate flow and liner system performance. To clarify this, a reference to the performance requirements for the primary leachate collection and removal system is being added to the regulations.

-The mined land use plan requirements of the engineering report are being amended to clarify that a mined land use plan is not required if the landfill plans to perform on-site excavation of material to be used as an operating cover at the landfill and the landfill footprint will be situated in the area from which the material is being removed. A mined land use plan is required if the landfill footprint will not be situated in the area from which the material is being removed and a mining permit is required if the excavated material is being used off-site.

-Well extension requirements are being amended to eliminate the requirement to remove the outer casing and concrete pad when extending a well. The removal of these could compromise the integrity of the well. Language is being added to ensure well extensions are designed to maintain the future integrity of the well casing and to prevent surface water intrusion into the well casing.

-The regulations are being amended to clarify that the sustainability plan that is submitted with the permit application must be updated no less than every five years and at the time of permit renewal.

-The sampling and analysis of landfill gas condensate is being added to the environmental monitoring plan. These requirements were included in Part 360 prior to November 4, 2017. These requirements are consistent with leachate monitoring requirements, will enhance groundwater protection, and will reflect the standard industry practice.

-References are being corrected in the environmental monitoring plan contingency water quality requirements. In addition, the regulations are being restructured to clarify the requirements if one or more parameters are detected at levels above the groundwater protection standard.

-In addition to the Part 360 series landfill regulations, NYS landfills must also meet the federal regulatory requirements contained within 40 CFR Part 258. Language is being added to the gas monitoring and emission control plan to make the requirements consistent with the federal regulations. Footnotes are being added to the tables in Section 363-4.6 to make the Part 360 series requirements consistent with 40 CFR Part 258.

Subpart 363-5 Siting Requirements

-In addition to the Part 360 series landfill regulations, NYS landfills must also meet the federal regulatory requirements contained within 40 CFR Part 258. Siting requirements are being added to protect state and federal wetlands and to eliminate any inconsistencies between the federal and state siting requirements.

-Language is being added to prohibit the siting of new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. This revision is intended to increase the distance between landfill and school or residences and thereby limit any potential impacts.

Subpart 363-6 Design, Construction and Certification Requirements

-The requirements for the double composite liner system are being amended to require an 80 mil HDPE geomembrane in the primary and secondary composite liner systems. This is a thicker geomembrane than the 60 mil HDPE geomembrane currently required. The thicker geomembrane is more robust against damage resulting from installation of the material and construction of the remaining layers of the liner system. The thicker geomembrane will also have a longer service-life, increasing the longevity of the liner system to ensure added long-term groundwater protection. The 80 mil HDPE geomembrane will also make the baseline landfill liner requirements for all landfills across the state consistent with current Part 363 regulatory requirements for landfills located within the deep flow recharge area in Nassau and Suffolk Counties on Long Island.

-The regulations are being amended to require double composite liner systems for construction and demolition debris landfills, papermill sludge monofills, municipal waste combustion ash monofills and other industrial waste monofills, unless it is demonstrated by the applicant that an alternative liner system will not adversely impact groundwater quality. This double composite liner system adds a second geomembrane liner and leachate collection system to the existing requirements to enhance environmental performance and to prevent adverse impacts to groundwater.

-The reference to the final cover system requirements is being corrected to refer to closure, post-closure and custodial care requirements in Subpart 363-9 rather than the corrective measures requirements in Subpart 363-10.

-Part 363 currently requires the primary composite liner to be constructed with a properly specified GCL. This was a change from the previous regulations that were in effect prior to November 4, 2017 that allowed for the use of a constructed clay liner. However, current Part 363 does not adjust the required hydraulic conductivity for the GCL component of the upper composite liner system to be representative of the permeability of GCLs that are widely available to the industry. The proposed revisions include decreasing the required hydraulic conductivity of the GCL barrier component of the upper composite liner to 1×10^{-8} cm/sec.

-Storage requirements for geosynthetic materials used in landfill construction are being added to the regulations. The geosynthetic materials play an important role in the performance of the landfill and proper storage of the materials will ensure that the material is not compromised before use. These requirements are based on industry standards and should already be standard practice during landfill construction.

-Part 363 currently requires the geomembrane to be installed in a manner that eliminates waves entirely to ensure that the material is installed in direct and uniform contact with the underlying low-permeability soil layer or GCL. The regulated community has indicated that eliminating waves during construction is not practical and has been unable to meet this requirement during construction inspections. These construction requirements are being amended to allow the geomembrane to be installed in a manner that minimizes waves and any waves must be less than 2 inches in height. This will result in a more implementable and enforceable requirement while ensuring that the waves are small enough to avoid creases in the geomembrane to allow for direct and uniform contact as the overlying liner layers are placed.

-Requirements for measuring the temperatures during geomembrane seaming operations are being added to reflect industry standards.

-Because over 95 percent of landfill liner system defects happen during construction, Part 363 requires that all landfill primary and secondary liner systems be subject to electrical resistivity leak location upon placement of the soil drainage

layer. However, to provide consistency in performing this construction quality assurance testing under these provisions, language specifying the minimum requirements for performing these tests is being added to the regulation to standardize the reporting to the Department in the final construction certification report.

-The soil drainage certification requirements are being amended to include a requirement for the project engineer to certify that the requirements of subdivision 363-6.10(a) are met. This will be additional confirmation that the proper material is used in the soil drainage layer.

-The design, construction and certification requirements in Section 363-6.11 are being amended to clarify that the requirements also apply to the gas condensate pipes.

-The current regulations allow for the use of a department approved geosynthetic final cover system in place of the final cover topsoil requirement in Section 363-6.18. Language is being added to Section 363-6.16 and Section 363-6.17 to mirror the language in Section 363-6.18 to also allow for the use of a department approved geosynthetic final cover in place of the barrier protection layer and the drainage layer. This will allow a designed geosynthetic final cover system to be reviewed and approved through the permitting documents and engineering drawings and will clarify that these final cover systems can be approved without the need for a variance from the Section 363-6.16 and Section 363-6.17 requirements.

-The equivalent design requirements are being amended to clarify that the use of waste and non-waste materials as alternative operation cover is not subject to the variance requirements.

Subpart 363-7 Operating Requirements

-The operating requirement for the use of alternative operating cover is being amended to clarify that the total amount used must not exceed the total annual tonnage specified in the facility's permit to operate. Language is being added to clarify the reporting of any exceedance in accordance with the facility's permit and the reporting requirements in Section 363-8.2.

-Requirements are being added for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions.

-The regulation is being amended to clarify the deed restriction requirements to provide more detail on the type of document required, the contents of the document and the timing of the submittals to the department.

-The regulation is being amended to incorporate the requirements of the 2019 Food Donation and Food Scraps Recycling Law for landfills that receive food scraps,

including how certain large food scraps generators must manage their excess edible food and food scraps and requirements for transporters, transfer facilities, and combustors to ensure that the separated food scraps reach the required organics recycler.

-While the landfill is in operation, financial assurance must be provided to cover the closure of the landfill and the post-closure care period. Financial assurance for custodial care is not required until it is demonstrated that the threat to public health and the environment has been reduced to a level where environmental monitoring and maintenance can be reduced. The financial assurance requirements are being amended to make this distinction.

Subpart 363-9 Closure, Post-closure and Custodial Care

-The applicability section in Subpart 363-9 is being revised to clarify which requirements apply to which landfills. Landfills that stopped accepting waste prior to November 4, 2017 are subject to the end use requirements in Section 363-9.7.

-Part 363 currently does not specify when the updated deed restriction should be submitted to the Department. The regulation is being revised to require the submission of the updated deed restriction with the facility closure plan.

-The regulations require the leachate collection and removal system be maintained and operated in accordance with the leachate management operating requirements during post-closure care. The language is being amended to clarify that the leachate collection and removal system must also be maintained and operated during post-closure care in accordance with the maintenance for primary and secondary leachate collection and removal system requirements in Subpart 363-7.

-Language requiring gas to be destroyed in a flare or equivalent equipment is being removed to be consistent with the design, construction and certification requirements in Subpart 363-6. Part 363 currently requires active gas collection systems to be maintained and operated during the post-closure care period. Language is being added to clarify that the maintenance and operation of this system must be done in accordance with the operating requirements in Subpart 363-7.

-Post-closure care and custodial care operating requirements are being added to clarify that landfills must continue to maintain a form of financial assurance during these periods. This is consistent with the financial assurance requirements in Section 360.22.

Subpart 363-10 Corrective Measures

-In addition to the Part 360 series landfill regulations, landfills must also meet the federal regulatory requirements contained within 40 CFR Part 258. Language is being added to the regulations to require the certification be submitted within fourteen days of completion of the corrective measure to ensure consistency between the federal and state requirements.

Subpart 363-11 Landfill Reclamation

-The landfill reclamation regulations are being amended to clarify the timeframe for obtaining the required registration and for submitting the drawings and work plans. This clarification will ensure the reclamation project has authorization from the Department before the feasibility study field investigation takes place, allowing the Department to ensure sufficient measures will be implemented to control odors, vectors and infiltration as the landfill cover system is disturbed.

-The landfill reclamation work plan must include a description of the procedures to excavate, process, store, transfer, use and dispose of the excavated material. The regulations incorrectly refer to the beneficial use determination regulations for the off-site reuse of soil components or residues. The reference to the beneficial use determination regulations is being corrected to refer to Section 360.12.

Part 364 Waste Transporters

364-1 General

-The term “excavated material” is being added to Section 360.13 to identify material generated during construction and excavation activities, as opposed to fill material, which is excavated material that is beneficially used as authorized under Section 360.12 or Section 360.13. The term is being utilized throughout the Part 360 Series including in Part 364.

-The location of the term “infectious wastes” has been reorganized to improve the flow of the section.

364-2 Exemptions

-A standard exemption exists for transport of regulated wastes in quantities less than or equal to 2,000 pounds. In addition, other exemptions exist for specific regulated wastes using other units or amounts. Subpart 364-2 is being amended to bring all of these exemptions under one paragraph to make the requirements simpler to understand.

-The exemption for residential and institutional waste is being amended so that any regulated wastes identified in Section 364-1.2 that are generated by residences or institutions are no longer exempt from Part 364 oversight.

-Requirements for hazardous waste are being amended, including clarification that transportation of hazardous waste in any quantity is not exempt, so that only source-separated, self-transported HHW is exempt. In addition, explicit reference to rechargeable batteries is removed from the regulation. Instead, rechargeable batteries will be included under the waste transporter requirement for universal wastes.

-The exemption provisions are being amended to add a new exemption for the transportation of tree debris.

-In addition to the amendments discussed above, the exemption for transport of waste tires is being revised under current regulations, the transport of waste tires in quantities less than or equal to 2000 pounds is exempt. This equates to the transport of approximately 80 waste tires, which creates the potential for large quantities of waste tires to be transported legally to illegal disposal sites. To address this, the proposed revision restricts exempt transport of waste tires to 20 or fewer waste tires.

-Under current regulations, Section 360.13 references transportation requirements for reused fill material. This can cause confusion and potential contradictions with the requirements in Part 364. Therefore, the proposed revisions include removing the transportation references in Section 360.13 and placing them into Part 364. In general, material with an approved beneficial use determination (BUD) is exempt from Part 364 requirements, however, the proposed revisions exclude transport of the following materials from that exemption:

- Fill Type 1 if the material is transported within the City of New York, Nassau County, Suffolk County or Westchester County;
- Fill Type 2, Fill Type 3, Fill Type 4 and Fill Type 5 if those materials are transported within the City of New York, the New York City Watershed, Westchester County, Nassau County or Suffolk County (This group is defined as the New York City Metropolitan Area Waste Impact Zone in the proposed revisions); and
- Fill Type 4 and Fill Type 5 anywhere in the state.

-Current Part 364 regulations require that concrete, asphalt, brick and rock, or mixtures of these materials, that do not meet the requirements of a pre-determined BUD must be transported under a Part 364 registration. The proposed revisions include a new exemption for the transport of these materials beyond the BUD exemption, so that the material can be transported without registration or permit except within the New York City Metropolitan Area Waste Impact Zone.

-Current Part 364 regulations require that transportation of used oil in any volume requires a Part 364 permit. The proposed revisions include as a new exemption the transport of 55 gallons or less of waste oil. This will reduce the regulatory burden and cost associated with transport of small volumes of waste oil.

-Current Part 364 regulations exempt on-site transport of regulated wastes. The proposed revisions clarify this exemption to allow exempt transport on or across any privately or publicly owned parcel so long as the transport does not take place on any public way.

364-3 Registrations

-The existing regulations allow transportation under a registration of C&D debris in single shipments of greater than 10 cubic yards. The proposed revisions include the following additional conditions for transportation of specific types of fill material, which will provide additional oversight of transportation within areas that have been particularly affected by illegal disposal of fill material:

- transportation under registration of Fill Type 1 is only required if the material is transported in Nassau County, Suffolk County, Westchester County or the City of New York.
- transportation under registration of Fill Type 2 or Fill Type 3 is only required if the material is transported in the New York City Metropolitan Area Waste Impact Zone.

-Under current regulations, transport of approximately 80 or fewer waste tires is exempt from waste transporter regulations. As already mentioned, the proposed revisions will reduce this exemption to 20 or fewer waste tires per load. This proposed revision will allow the transport under a registration of waste tires in quantities greater than 20 but less than 80 waste tires. Costs associated with transport under a registration may increase incrementally due to paperwork requirements, however, there is no fee associated with registrations so new costs will be limited.

-Current Part 364 regulations require that transportation of used oil in any volume requires a Part 364 permit. As already mentioned, the proposed revisions will exempt from waste transporter regulations the transport of 55 gallons or less of waste oil. The proposed revisions will allow transport under a registration of waste oil in quantities greater than 55 gallons but less than or equal to 275 gallons in a single shipment.

-Operating requirements for registered transporters are being amended to acknowledge that transporters may carry justification to verify that their load does not require a waste transporter registration or permit. This justification may take the form of DEC guidance documents related to pre-determined beneficial use determinations that specify whether or not a Part 364 authorization is required for the transport of the material. This change will make it easier for transporters to comply with regulatory requirements and for officials to understand what transportation requirements are necessary.

-The proposed revisions include clarifying language that a transporter is allowed to return a load of regulated waste to the site of generation, even if the site of generation is not an authorized receiving facility, if an authorized receiving facility cannot be located or a receiving facility refuses to accept the waste. This change will reduce

additional disposal costs by allowing the waste to be returned to the generator for disposal at an authorized disposal facility.

364-4 Permits

-The proposed revisions relocate language that requires a receiving facility to be authorized to accept a particular regulated waste from the Permitting Requirements and Standards section to the Operating Requirements for Permitted Transporters section.

-The proposed revisions are being amended to include new language that the Department may conduct inspections of transport vehicles regulated under Part 364 as a condition of the transporter authorization, that the transporter must ensure that any vehicle used to transport regulated waste under the authority of the permit must be listed on the permit, that the transporter must ensure that any receiving facility to which regulated waste is delivered must be listed on the permit, and that the transporter must comply with all applicable state and federal laws. These changes make clear the transporters responsibilities and obligations under the regulations and will help reduce costs associated with enforcement brought against transporters by the Department.

364-5 Recordkeeping and Reporting Requirements

-The proposed revisions require that waste tracking documents accompany Fill Type 1, Fill Type 2, or Fill Type 3 transported in the New York City Metropolitan Area Waste Impact Zone. Tracking documents are also required for Fill Type 4 or Fill Type 5 transported anywhere in the state. The use of tracking documents is intended to help ensure that fill material is transported to and used only in areas authorized for its use, and to help enforcement officials identify improper transportation and use.

-The proposed revisions replace the phrase 'contaminated fill' with the phrase 'excavated material' that does not meet any of the requirements of Section 360.13 of this Part.

-As discussed previously, transporter requirements which are included in Section 360.13 in the existing regulations are relocated to Part 364. In addition, the current regulations require waste tracking documents for the transport of any C&D debris generated in the City of New York. The proposed revisions expand that requirement to include waste tracking documents for the transport of C&D debris generated in the New York City Metropolitan Area Waste Impact Zone, areas where illegal disposal of fill material has been a particular concern.

-The feedback that the Department received from the regulated community indicated that waste transporters required to return copies of waste tracking documents to the waste generator and the Department have experienced difficulty in complying with these requirements. Recordkeeping requirements in the current regulations obligate waste transporters to maintain copies of their waste tracking documents, and the

proposed revisions specify that C&D Debris Handling and Recovery Facilities must maintain waste tracking documents for covered materials which leave their facilities. Therefore, the Department believes that the requirement for the return of waste tracking documents to the Department is an unnecessary burden, and the proposed revisions remove those requirements and instead require that the waste transporter provide copies of the completed waste tracking documents only to the receiving user or facility within 15 days of the waste delivery.

-The proposed revisions allow for an equivalent document that has been approved by the department to be used in place of the waste tracking document provided by the Department. This change will reduce the cost of compliance for transportation companies that utilize their own ticketing system and can adjust it to meet the Department's requirements.

-The proposed revisions remove the specific jurat language related to certification of information on the waste tracking document. This change along with other proposed revisions would allow a waste transporter, with Department approval, to use an existing weigh scale ticketing or manifesting system that includes the same information to be used in place of the Department's waste tracking document forms. As with the proposed changes related to waste tracking documents, the allowance would ease the burden on waste transporters.

-The proposed revisions allow an acknowledgment by the generator or the receiving facility to be used in place of the signature of an authorized representative. This change would allow the use of weigh scale tickets or similar documents to acknowledge receipt of material. This change would reduce the need to coordinate with receiving facility staff and therefore will reduce the regulatory burden currently faced by waste transporters.

-The proposed revisions allow transporters with both a Part 364 permit and a Part 364 registration to submit one combined annual report that includes the necessary information for both authorizations, reducing the reporting costs and complications faced by the industry.

Part 365 Regulated Medical Waste and Other Infectious Wastes

Subpart 365-1 RMW Generators

-Requirements to remove sharps and other regulated medical waste (RMW) containers from patient care areas, laboratories or other generation areas within certain definite time periods is being changed to require removal only when containers become full or if the container starts to generate odors or other evidence of putrefaction. Since many RMW containers do not fill quickly, and they provide an important means for proper handling of RMW in these settings, the requirement to remove these containers

from use within 90 days (in the case of sharps containers) or shorter periods for other RMW is unnecessary.

-The 60-day time limit for storage of RMW for generators of less than 50 pounds of RMW per month, who do not accept RMW for treatment from other facilities, is being eliminated. Under the proposed revisions, these generators can store RMW until containers are full or produce odors or other evidence of putrefaction.

-Disposal requirements for pharmaceutical waste that cannot be separated from RMW at the site of generation are being clarified to indicate on the disposal packaging that incineration is required. Clarification is also being added that saline and nutrient solutions are not subject to wastewater disposal prohibitions.

-A new subdivision is being added to Section 365-1.2 to consolidate all existing and new provisions for registration for the activity of on-site processing of RMW. This new subdivision incorporates the registration previously in Subpart 365-2 for Biosafety Level (BSL)- 2 and Animal BSL (ABSL)-2 laboratories treating less than 500 pounds per month of their own waste. This subdivision also incorporates a new registration for BSL-3 and ABSL-3 laboratories treating less than 500 pounds per month of their own waste on site, provided these BSL-3 or ABSL-3 labs hold a Federal Select Agent Program (FSAP) registration with associated safety protocols. In allowing these FSAP-registered BSL-3 and ABSL-3 laboratories to register in place of obtaining a permit, the Department recognizes the additional safety protocols required for FSAP labs in handling of biohazard materials, and that the registration provisions of Part 365 for outgoing wastes from FSAP facilities are sufficient to protect public health and the environment. Other BSL-3 laboratories under the same institutional oversight may be included in this registration.

-The new proposed subdivision for registered facilities for on-site processing of RMW includes operational requirements for all such registered facilities, whereas previously these appeared in Subpart 365-2. Furthermore, this subdivision clarifies which RMW generators will continue to be subject to permitting pursuant to Subpart 365-2.

-Clarification is being added in this Subpart and also in Subpart 365-2 that regulated Biosafety Level 2, 3, and 4 facilities include both traditional laboratories and other generation areas as well as animal facilities.

Subpart 365-2 RMW Treatment, Storage and Transfer Facilities

-The requirement for a permit for treatment facilities located at and operated by BSL 3 laboratories with a FSAP registration is being removed, as explained under Subpart 365-1, because the Department proposes allowing these RMW generators to register. Clarification is being added to the Applicability section of this Subpart

to indicate that permitting requirements in this Subpart apply to BSL-3 laboratories without valid FSAP registration, and to all BSL-4 laboratories.

-A requirement for facility operators to immediately report of all spills or releases of RMW and other emergency situations to the Department is being added to operational requirements for registered RMW facilities to facilitate timely inspection and oversight of emergency response by the Department at these facilities. This notification requirement currently exists only for facilities with a permit, and this change is proposed to enhance safety at registered facilities.

-The requirements to obtain liability insurance and financial assurance for closure costs, as discussed in Part 360, are proposed to be added in this Subpart to make clear that these requirements apply to permitted RMW facilities.

Subpart 365-3 Other Infectious Wastes

-This Subpart is being amended to clarify that it applies to waste that is presumed to be contaminated with infectious agents or toxins of biological origin, but does not apply to infectious materials that are likely to pose a health risk to humans or animals, such as samples of contaminated food or environmental samples, if they are treated before disposal.

-Two exemptions are proposed to be added for facilities or activities with little or no potential public health or environmental impact. The first exemption is for facilities or activities that handle a material containing an infectious agent at a concentration naturally occurring in the environment. The second exemption is for facilities or activities handling contaminated foodstuffs or samples of foodstuffs being sent for routine quality control or environmental analysis, provided that any culture samples or devices posing biohazards are treated before disposal.

Part 366 Local Solid Waste Management Planning

Subpart 366-2 Local Solid Waste Management Plan (LSWMP) Contents

-The requirement to include the projections of municipal solid waste generation in the waste generation and materials recovery data is being removed because this information is also included in the waste stream projections requirements in Section 366-2.7. This will eliminate the need to report the same data in two different locations in the same document.

-The LSWMP must include a description of the existing solid waste management system. A revision is being made to clarify that all facilities that serve the planning unit must be described.

Subpart 366-4 LSWMP Approval

-The LSWMP approval requirements are being amended to clarify that an annual planning unit report is not required.

Subpart 366-5 LSWMP Biennial Updates

-The due date for the biennial update is being amended from May 1 to October 1 to give the planning units more time to compile and analyze the solid waste management facility data that is made available by DEC on June 1.

-The summary report requirements are being amended to give additional detail to the planning units on the data that must be submitted in the biennial update and to clarify that comparisons and reasons for deviations from the projections are only required for the municipal solid waste stream.

-The requirements for the optional planning period extension are being amended to give the planning units the flexibility of requesting an extension at any time during the planning period and to ensure timely review of the submission by the department. This optional planning period extension allows planning units to request five two-year extensions, thereby potentially extending the original planning period by ten years.

Part 369 State Assistance Projects

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

-Every year, the department is allocated limited funds to distribute to municipalities engaged in recycling activities. To conserve and properly allocate those resources, it is important to articulate permissible uses of the funds. Therefore, equipment that is used for activities other than recycling is not eligible for grant reimbursement. The proposed revisions clarify ineligible costs for equipment in Section 369-2.4. The current rule includes a list of specific ineligible vehicles and has led to confusion among some applicants that only the specific vehicles identified were ineligible. To address this, the regulations are being amended to identify the types of vehicles and the uses that are ineligible for grant reimbursement. For example, rather than identifying a list of ineligible equipment used for road repair and maintenance, the proposed regulations indicate that, in general, equipment used for road repair and maintenance is ineligible. Similarly, general purpose vehicles are identified as ineligible in the proposed revisions, rather than identifying each of the vehicle types listed in the current regulations.

-The proposed revisions specify that any project that is required as part of a settlement of an enforcement action is not eligible for reimbursement under Subpart 369-2. It is inappropriate for the department to provide reimbursement for projects that result from enforcement cases against municipalities. This

is already emphasized in the current Subpart 369-4, which states that the costs of a household hazardous waste collection event or collection events that are required by the department as part of the settlement of an enforcement action are not eligible for reimbursement under Subpart 369-4. The proposed revisions add a similar restriction to other state assistance grants administered under Part 369.

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

-Based on DEC's review of grant applications submitted during the 2018 application period, DEC determined that eligible costs needed to be clarified. The proposed revisions clarify that salary and fringe benefits expenses for recycling educators may be included in the costs for eligible projects. However, those costs are limited to the employer cost of providing health and/or medical insurance to the recycling educator or coordinator and the employer costs for contributions towards the retirement or pension plan of the recycling educator or coordinator. This clarification aligns the regulations with how the Department currently implements them, so it does not add any eligible costs to a project. The proposed amendments also clarify that any project that is required as part of a consent order, including a compliance schedule, is not eligible for reimbursement under Subpart 369-3. It is inappropriate for the department to provide reimbursement for projects that result from an enforcement action against municipalities. As already mentioned, this is already emphasized in the current Subpart 369-4 which states that costs of a household hazardous waste collection event or collection events that are required by the department as part of a settlement of an enforcement action are not eligible for reimbursement under Subpart 369-4. The proposed revisions add a similar restriction to other state assistance grants administered under Part 369.

Part 371 Identification and Listing of Hazardous Wastes

-Subdivision 371.1(c) defines the term solid waste for purposes of the Part 370 Series regulations. This definition of solid waste is associated with federal hazardous waste regulations and the associated 6 NYCRR Part 370 Series hazardous waste management regulations. However, the Department's regulation of solid waste under 6 NYCRR Part 360 Series is a separate and distinct regulatory framework, and the definition of solid waste under Part 360 is a separate definition that carries obligations and opportunities for reuse under the Part 360 regulations which are distinct from Part 370 Series obligations. These two separate regulatory frameworks have caused confusion within the regulated community. To clarify the distinctions, language is being amended in paragraph 371.1(c)(6) to clarify that, though a material may not be considered a solid waste under Part 371, that material remains a solid waste as defined under section 360.2. This is a clarification of current regulations and therefore there is no cost to industry associated with this revision.

-Current state and federal regulations include an exclusion from the definition of hazardous waste under subdivision 371.1(e) for wastes produced by oil and natural gas exploration and production wastes. Recent state legislation commonly known as the “Uniform Treatment of Waste Law” (S3392/A265) was passed which requires that the exclusion be removed from state regulations. Therefore, the language is being amended to implement the statutory requirement by removing reference to oil or natural gas-related waste from the exclusion. There may be increased costs to waste generators associated with making initial hazardous waste determinations for these wastes based upon sampling which can range between \$700 to \$3000 for Toxic Characteristic Leaching Procedure analytical suite. Afterwards generator knowledge of previous sampling or the waste generation process may be used to make future hazardous waste determinations.

-Federal regulations allow wastes generated by conditionally exempt small quantity generators (CESQG waste) to be received by permitted, licensed, or registered solid waste management facilities authorized to receive those waste. However, current state hazardous waste regulations restrict receipt of CESQG waste to only authorized permitted solid waste management facilities. The language in clauses 371.1(f)(6)(iii)(‘e’) and 371.1(f)(7)(iii)(‘e’) is being amended to allow licensed or registered solid waste management facilities to receive CESQG waste if they are authorized to do so. Along with amendments being made to Subpart 362-5, the proposed amendments will reduce the permitting costs for the solid waste management facilities that receive CESQG waste, which can range from \$20,000 to \$50,000 for a Part 360 Permit.

Part 377 Siting of Industrial Hazardous Waste Facilities

- As part of the last comprehensive revision to the 6 NYCRR Part 360 Series in 2017, the former Part 361 was renumbered to Part 377. However, internal references within Part 377 were not updated and in several cases still refer to former Part 361. These internal references are corrected in this rulemaking. Specifically, in subdivision 377.2(a), the reference to 361.1(f) is corrected to 377.1(f); in subdivision 377.4(c), the reference to 361.3(g) and (h) is corrected to 377.3(g) and (h); and in paragraph 377.4(f)(3), the reference to section 361.7 is corrected to section 377.7.

4. COSTS

-In most instances, revisions to Sections 360.12 and 360.13 will expand the types of materials eligible for pre-determined beneficial use. Avoidance of disposal through legitimate reuse will lower costs for construction contractors, industry, municipalities and the public by reducing the transportation costs and tipping fees associated with landfill disposal.

-Municipalities in western New York use natural brine from gas wells and LPG storage caverns to repair unpaved roads (road stabilization) and to reduce dust. This brine is obtained by municipalities at little or no cost, compared to purchased brine, rock salt or calcium chloride which can range in cost from \$10,000 to \$300,000 annually (even the lower end of this range may constitute a significant portion of a small municipal highway maintenance budget). Two changes are proposed to allow continued use of these types of brine without increased harm to the environment: first, to increase the allowable concentration of sulfate, a natural constituent in these types of brine, from the current 2500 milligrams per liter to 8200 milligrams per liter, a concentration typical of sulfate in brine formulated from rock salt; and secondly, to allow case-by-case review of brine composition for use in road stabilization, which is typically performed only once per year.

-New Fill Type 3 will create a material similar to clean soil but with de minimis quantities of concrete, brick or asphalt pavement. This pre-determined beneficial use will expand markets for this material which is especially prevalent in high-population areas.

-Expanded restrictions on use of Fill Type F5 and grade adjustment materials into Westchester County and the New York City Watershed will increase costs for entities who previously have been allowed to use these materials without further DEC review and approval. These entities are being required to choose alternatives or petition for a case-specific BUD.

-The proposed amendments to Subpart 361-1, Recyclables Handling and Recovery Facilities primarily serve to clarify existing requirements, and do not add any requirements with associated application, construction, or operating costs. The removal of the 250 ton/day limit on registered facilities will reduce application costs for facilities who otherwise would require a Part 360 permit.

-The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. This is needed for groundwater protection but will increase the cost associated with these facilities. Most new septage storage facilities are tanks, so it is expected that few operations will be affected. The estimated cost for engineering associated with the permit is at about \$10,000.

-Subparts 361-3 and 361-4 contain revisions that include groundwater monitoring and other controls for composting and mulch facilities located in Nassau County and Suffolk County. These requirements are required by ECL Section 15-0517 and cannot be waived. The statute requires the department to promulgate regulations requiring groundwater monitoring at composting and mulch facilities in Nassau County and Suffolk County. The cost associated with these requirements will vary significantly based on the size and characteristics of the operation but could range from a few thousand dollars per site or significantly higher.

-The proposed amendments to Subpart 361-5, Construction & Demolition Debris Handling and Recovery Facilities (CDDHRFs) on balance will reduce paperwork and costs to industry. The exemption for contractors responsible for generation of materials to store them off the site of generation, in anticipation of beneficial use, will save contractors the paperwork and costs of registration or permitting. Removal of the waste tracking document requirement will reduce duplication and related costs.

-Elimination of the throughput limitation of 500 tons per day (weekly average) for registered CDDHRFs will enable more facilities to be eligible for registration, eliminating paperwork, time, and costs of a permit application. Allowing receipt of mixed loads of certain materials at registered facilities, especially concrete, brick, rock, and asphalt pavement, will also enable more facilities to obtain registration instead of a permit. The new proposed registration for storage of these materials, with no processing allowed, will accommodate the needs of the construction industry while minimizing noise and other adverse impacts to communities. Sampling requirements for outgoing fill products are significantly reduced for the cleaner fill types (Fill Type 2 and Fill Type 3), with only four analyses per year at roughly \$1000 each versus every 1000 cubic yards for annual costs potentially in a range of \$100,000 to \$1.0 million at a large CDDHRF. Tracking requirements in this Subpart for outgoing materials are being eliminated with associated paperwork and costs.

-A permit will be required, however, for a CDDHRF receiving mildly contaminated (Fill Type 4 or Fill Type 5) excavated materials with the elimination of the current registration.

-The proposed amendments to Subpart 361-6 for Waste Tire Handling and Recovery Facilities, to exempt tire processing at farms and at illegal disposal abatement sites will eliminate a cost and paperwork burden to farmers and abatement contractors engaging in activities to convert discarded tires into usable products. Allowing alternatives to fencing for security at registered tire storage and resale facilities will make it feasible for more facilities to register, while still ensuring prevention of unauthorized access, and avoiding the cost and paperwork associated with a permit application.

-The proposed amendments to Subpart 361-7, Scrap Metal and Vehicle Dismantling Facilities, primarily clarify existing requirements and rectify potential inconsistency with State law. Collection of metal shavings and cutting oils ("swarf") is a new requirement for scrap metal processors, but in most cases will coincide with industry best management practices and not impose additional costs.

-Subpart 362-1 is being amended to eliminate the requirement for facilities that only combust or thermally treat uncontaminated, unadulterated wood to obtain a Part 360 registration, thus eliminating the costs to these facilities associated with obtaining a Part 360 registration and completing solid waste management facility annual

report forms. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

-Subpart 362-1 is being amended to clarify the laboratory certification requirements and the methods and procedures used for analyses. These requirements are not expected to result in increased costs to the facilities.

-Subpart 362-1 is being amended to require the submission of analytical results associated with ash residue sampling. This is currently required for facilities that are operating under the previous regulations and is required by permit condition for facilities operating under the current regulations. This is not expected to result in increased costs to the facilities.

-Subpart 362-3 is being amended to allow small municipal transfer facilities to manage source-separated recyclables without the need for a Part 360 authorization, thereby eliminating the costs associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

-Subpart 362-3 is being amended to add an exemption for municipal transfer facilities that receive no more than 3,000 tons per year of yard trimmings. This exemption will encourage municipalities to properly manage yard trimmings and will eliminate costs to municipalities associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

-Subpart 362-3 is being amended to add an exemption for municipalities that hold seasonal collection events, thereby eliminating the costs associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

-Facilities transferring septage waste from a single transporter using no more than two vehicles for the collection of residuals from a composting toilet will be allowed to operate under a Part 360 registration rather than a Part 360 permit, thereby reducing the costs associated with the Part 360 authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

-Subpart 362-3 is being amended to allow facilities that transfer more than 250 tons/day of source-separated recyclables to operate under a Part 360 registration rather than a Part 360 permit, thereby reducing the costs associated with the Part 360 authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

-Proposed amendments to Subpart 362-4 Household Hazardous Waste Collection Facilities and Events will not increase costs or reduce costs to the regulated community.

-The addition of Subpart 362-5 is expected to reduce costs for collection sites operating under a department-approved postconsumer paint collection program plan. This Subpart will allow facilities that would have otherwise required a permit to obtain a registration. Costs associated with these registrations should be minimal. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

-Subpart 363-2 is being amended to remove the exemption for disposal of up to 5,000 cubic yards of concrete, asphalt, brick, glass, rock and general fill originating from construction or demolition sites. The addition of a grade adjustment pre-BUD in Section 360.12 provides an alternative management approach for these materials and therefore this amendment is not expected to result in increased costs for the management of these materials.

-Subpart 363-2 is being amended to add an exemption for disposal within a state, municipal or utility right-of-way of tree debris generated by the clearing of the right-of-way. This is expected to decrease costs associated with managing and removing tree debris.

-Subpart 363-2 is being amended to add restrictions to the exemption for the disposal of animal mortalities on farms. The revisions in 363-2 could result in additional labor time for farmers to dispose of animal carcasses. This additional labor time could translate into additional costs for farmers.

-Subpart 363-3 is being amended to clarify inactive landfills are subject to the end use requirements in Section 363-9.7. This amendment is not expected to result in increased costs for inactive disposal facilities.

-The requirement to sample and analyze landfill gas condensate is being added to the environmental monitoring plan. Since landfills are already performing sampling and analysis of gas condensate, this reflects the standard industry practice and is not expected to increase the costs for environmental monitoring.

-Requirements are being added to Subpart 363-5 to protect state and federal wetlands and to eliminate any inconsistencies between the federal and state requirements. These additions are not expected to result in an increase in siting costs.

-The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. This could potentially result in limiting the life of eight

landfills in the state due to their inability to expand, resulting in increased disposal and transportation costs for residences and municipalities in the affected areas. In addition, when a landfill laterally or vertically expands, the landfill adds disposal capacity and for each ton of added disposal capacity the landfill can charge a tip fee for disposal of waste into the expansion area. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.

-The design, construction and certification requirements in Subpart 363-6 will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.

-The design, construction and certification requirements in Subpart 363-6 will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.

-The required hydraulic conductivity for the GCL component of the upper composite liner system in Subpart 363-6 is being amended to be representative of the permeability of GCLs that are widely available to the industry. This amendment is not expected to result in an increase of the cost of the GCL.

-The requirements for storage of geosynthetic materials reflect standard industry practice and are not expected to increase landfill construction costs.

-The requirement to allow waves 2 inches in height or less during the installation of geomembranes reflects recommendations from industry experts and is not expected to increase landfill construction costs.

-The requirement for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

-Subpart 363-9 is being amended to clarify requirements related to the operation and maintenance of the leachate collection and removal system and the gas collection system during the post-closure care period. These amendments are not expected to increase the costs of post-closure care.

-The post-closure care and custodial care operating requirements in Subpart 363-9 are being added to clarify that landfills must continue to maintain a form of financial assurance during these periods. These amendments are not expected to increase the costs of financial assurance.

-Subpart 363-10 is being amended to clarify submission requirements. This amendment is not expected to increase the costs of corrective measures.

-Subpart 363-11 is being amended to clarify submission requirements and correct a reference to the beneficial use determination requirements. These amendments are not expected to increase landfill reclamation costs.

-Current Part 364 regulations require that transportation of used oil in any volume requires a Part 364 permit. The proposed revisions to Subpart 364-2 include as a new exemption the transport of 55 gallons or less of waste oil. The proposed revisions to Subpart 364-3 will allow transport under a registration of waste oil in quantities greater than 55 gallons but less than or equal to 275 gallons in a single shipment. This will reduce the regulatory burden and cost associated with transport of small volumes of waste oil.

- Subparts 364-2 and 364-3 are being amended to require registrations or permits for transportation of waste tires in quantities above 20 tires and 80 tires, respectively. Costs associated with transport under a registration may increase incrementally due to paperwork requirements, however, there is no fee associated with registrations so new costs will be limited. Costs associated with a permit would include regulatory fees for each permitted vehicle, required liability insurance and paperwork and recordkeeping costs.

- Subpart 364-3 is being amended to include clarifying language that a transporter is allowed to return a load of regulated waste to the site of generation, even if the site of generation is not an authorized receiving facility, if an authorized receiving facility cannot be located or a receiving facility refuses to accept the waste. This change will reduce additional disposal costs by allowing the waste to be returned to the generator for disposal at an authorized disposal facility.

- Subpart 364-5 is being amended to allow an equivalent document that has been approved by the department to be used in place of the waste tracking document provided by the Department. This change will reduce the cost of compliance for transportation companies that utilize their own ticketing system, while still meeting the Department's requirements.

-Allowing generators of non-radiological RMW to keep collection and storage containers until full or showing evidence of putrefaction, in various patient care areas, laboratories, and for pre-disposal storage below 50 pounds per month, is anticipated to reduce the

number of shipments of RMW for disposal and, accordingly, reduce costs to generators.

-Expanding registration eligibility to treatment facilities at Biosafety Level 3 laboratories registered under FSAP will reduce costs associated with obtaining a facility permit, even though these facilities will still need to meet substantive operating requirements of a permitted facility.

-All other proposed changes to Part 365 will not increase or decrease costs to the regulated community but will clarify some requirements in this Part for the regulated community.

-Revisions to Part 366 Local Solid Waste Management Planning primarily serve to clarify existing requirements and do not increase or reduce costs to the planning units.

-The proposed revisions to Part 369 discussed above clarify requirements that the Department currently applies to grant applications so there is no cost impact to the regulated community.

-Subdivision 371.1(c) revisions are clarifications of current regulations and therefore there is no cost to industry associated with this revision.

-Implementation of the "Uniform Treatment of Waste Law" (S3392/A265) may increase costs to waste generators associated with making initial hazardous waste determinations for these wastes based upon sampling which can range between \$700 to \$3000 for Toxic Characteristic Leaching Procedure analytical suite. After the initial testing determination generator knowledge of previous sampling or the waste generation process may be used to make future hazardous waste determinations.

-Along with amendments being made to Subpart 362-5, the revisions that allow registered, permitted, or licensed facilities to receive CESQG waste will reduce the permitting costs for the solid waste management facilities that receive CESQG waste, which can range from \$20,000 to \$50,000 for a Part 360 Permit.

5. LOCAL GOVERNMENT MANDATES

This 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 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 amendments to Subpart 362-1 Combustion and Thermal Treatment Facilities and Subpart 362-3 Transfer Facilities will eliminate the need for a Part 360 registration, thereby eliminating the paperwork associated with obtaining a Part 360 registration and eliminating any recordkeeping and reporting associated with facility monitoring and operational requirements.

-The proposed amendments to Subpart 362-1 Combustion and Thermal Treatment Facilities will require the submission of analytical results associated with ash residue sampling. This is currently required for facilities that are operating under the previous regulations and is required by permit condition for facilities operating under the current regulations. This is not expected to result in increased paperwork.

-The proposed amendments to Subpart 362-3 Transfer Facilities will reduce the amount of paperwork associated with obtaining a Part 360 permit for facilities transferring septage waste from a single transporter.

-The proposed amendments to Subpart 362-4 Household Hazardous Waste Collection Facilities and Events will reduce the amount of paperwork that needs to be submitted to the Department with the registration application.

-The proposed addition of Subpart 362-5 Paint Collection Sites Collecting Postconsumer Architectural Paint Under A Department-Approved Postconsumer Paint Collection Program will reduce the amount of paperwork that needs to be submitted to the Department for the Part 360 authorization.

-The revisions to Subpart 363-6 to require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills may result in an increase in the amount of paperwork required for reporting and certification.

-Proposed amendments to Part 366 Local Solid Waste Management Planning primarily clarify existing requirements to specify when paperwork needs to be submitted and do not increase or reduce the amount of paperwork associated with the development of LSWMPs or the LSWMP biennial updates.

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 or activities governed by Parts 360-365, 366 or 369. There are standards for the design and operation of solid waste landfills in 40 CFR Part 258. The criteria in Part 363 are equivalent to or more stringent than those found in 40 CFR Part 258 and the

State has been approved by the EPA to implement the federal Part 258 criteria. On June 13, 2019, the Department received notification from the EPA that the November 4, 2017 Part 360 General Requirements and Part 363 Landfill regulations are consistent with the minimum federal requirements established in 40 CFR Part 258. Although New York State does not have a delegated program, the federal criteria applicable to biosolids recycling were moved to Part 361 in the November 4, 2017 rulemaking.

8. ALTERNATIVE APPROACHES

A no action alternative was considered. Without revision to the November 4, 2017 Part 360 series regulations, the Department would have to rely on on-going enforcement discretion and guidance which includes clarification of specific areas of the regulations, especially the regulations which govern C&D debris handling and recovery and the beneficial use of C&D debris. Significant time has been invested in discussing amendments with regulated entities who have concerns with particular provisions of current Part 360, including C&D management, beneficial use of tires on farms, beneficial use of brine on roads, and groundwater quality on Long Island. The Department is proposing amendments to the regulations where it has found that the amendments will increase beneficial use of waste material, will reduce the regulatory burden on the regulated community and simplify compliance with the regulations. For these reasons, the no-action alternative was rejected.

The rulemaking has been the subject of both extensive public review and discussion. The revisions have been discussed with the regulated community in public forums and professional conferences. 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.

9. FEDERAL STANDARDS

As stated above, there are no federal regulations for most of the facilities and activities contained in the proposed rulemaking. The current and proposed regulations for landfills and biosolids recycling exceed the federal regulatory framework found in 40 CFR Parts 258 and 503, respectively. The packaging of RMW during transport is regulated by United States Department of Transportation and the appropriate reference is included in Part 365.

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.

Summary of Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of rule: The rulemaking is not expected to negatively affect small businesses and local governments. The rulemaking primarily updates existing regulatory criteria applicable to solid waste management facilities, in most cases providing additional flexibility and reduced regulatory burden for local governments or small businesses. 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.

2. Compliance requirements: The Department does not expect the regulations to have a negative impact on jobs and employment. The revised regulations build upon the amended regulations that were promulgated in November 2017. Since that time, the Department has seen no evidence of negative job or economic impacts caused by the new regulations.

3. Professional services: The need for additional professional services for small businesses and local governments is not anticipated. If a local government or small business is currently operating a solid waste management facility, they may already employ professional services to facilitate the operation of that facility and compliance with the regulatory requirements. The regulations are not expected to increase the level of professional services needed by those entities.

4. Compliance costs: These regulations are not likely to impose any significant new direct costs on small businesses or local governments. However, local governments and small businesses may own and operate solid waste management facilities or operate waste transportation businesses. If a small business or local government owns and operates a solid waste management facility or waste

transportation business, the costs associated with compliance with the rulemaking, including cost savings, are described below, organized by Part. In most cases the regulations will reduce costs associated with compliance. In others, as outlined below, the costs may increase.

Part 360

In most instances, revisions to Sections 360.12 and 360.13 will expand the types of materials eligible for pre-determined beneficial use. Avoidance of disposal through legitimate reuse will lower costs for construction contractors, industry, municipalities and the public.

Part 361

Many proposed amendments to Part 361 would reduce or maintain current costs. Those that could increase costs include:

- The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. The estimated cost for engineering associated with the permit is approximately \$10,000.
- Subparts 361-3 and 361-4 contain revisions that include groundwater monitoring and other controls for composting and mulch facilities located on Long Island. The costs associated with these requirements will vary significantly based on the size and

characteristics of the operation but could range from a few thousand dollars per site or significantly higher.

Part 362

Proposed amendments to Part 362 would reduce or maintain current costs.

Part 363

Many proposed amendments to Part 363 would reduce or maintain costs. Those that could increase costs include:

- Subpart 363-3 is being amended to add restrictions onto the exemption for the disposal of animal mortalities on farms. The revisions in Subpart 363-3 could result in additional labor time for farmers to dispose of animal carcasses. This additional labor time could translate into additional costs for farmers.
- The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.

- The Subpart 363-6 design, construction and certification requirements will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.
- The Subpart 363-6 design, construction and certification requirements will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.
- The Subpart 363-7 requirement for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

Part 364

Proposed amendments to Part 364 would reduce or maintain current costs.

Part 365

Proposed amendments to Part 365 would reduce or maintain current costs.

Part 366

Proposed amendments to Part 366 would reduce or maintain current costs.

Part 369

Proposed amendments to Part 369 would reduce or maintain current costs.

5. Economic and technological feasibility: The Department has focused on revising the regulations in a manner that is technically sound and economical. The regulations that apply to facilities that are currently subject to regulation are not expected to significantly alter the operation or costs associated with those operations. However, changes in the law required the addition of new facility requirements in the regulations, such as groundwater sampling and protections at some Long Island facilities and enhanced construction and groundwater protections standards at certain solid waste landfills. In most cases, however, the regulations include reduced regulatory oversight, through expanded exemptions, predetermined beneficial use determinations, and registration provisions, which will reduce the costs associated with some solid waste facilities and activities.

6. Minimizing adverse impact: These regulations will not impose any direct costs on small businesses or local governments. However, local governments and small businesses may own and operate solid waste management facilities or operate waste transportation businesses. If a small business or local government owns and operates a solid waste management facility or waste transportation business, the costs associated with compliance with the rulemaking, including cost savings, are described above. In some cases, the regulations will reduce costs associated with compliance. In others, the costs may increase. However, the department has provided options for municipalities to provide waste management services, especially for waste transfer facilities, that require registrations rather than permits and therefore significantly reduce the regulatory burden and costs. In most other cases, proper management of solid wastes is necessary to protect public health, safety, and general welfare. Therefore, the rule does not exempt small business or local governments from its provisions as allowed under SAPA Section 202-b(1)(c).

7. Small business and local government participation: This rulemaking is a continuation of the rulemaking that became effective in November 2017, which provided significant opportunities for outreach and feedback from the regulated community. Since November 2017, the department has received significant additional feedback from members of the regulated community, including from small businesses and local governments and as discussed above has included many amendments to the Part 360 Series regulations that will reduce the regulatory burden on the regulated community.

8. For rules that either establish or modify a violation or penalties associated with a violation: Pursuant to SAPA 202-b (1-a)(a) and (b), the rulemaking includes transition provisions that provide adequate time for regulated parties to come into compliance with any new provisions. Otherwise,

there is no such cure period included in the rule because of the potential for adverse impacts on human health and the environment. Cure periods for the illegal management or disposal of solid waste are neither desirable nor recommended as compliance is required to ensure the general welfare of the public and the environment is protected.

9. Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

Summary of Rural Area Flexibility Analysis

The rulemaking will amend the Department of Environmental Conservation's (Department) regulations governing solid waste management activities including facilities, waste transporters, local solid waste management planning, and state assistance projects that became effective in November 2017. The amendments will in some cases increase requirements on facilities and activities in order to improve environmental protection. In other cases, the amendments will simplify compliance for the regulated community in situations where the Department has determined that, due to the nature of the solid waste or the type of activity under consideration, the amendment will not negatively impact human health or the environment. In addition, developments in solid waste management and legislative initiatives have led to new types of solid waste collection and management; in these cases, new designated facility types within the Part 360 Series will allow for simpler and more effective collection and management while continuing to protect human health and the environment.

1. Types and estimated numbers of rural areas: All areas of the state, including rural areas, generate solid waste and will be affected directly or indirectly by the rulemaking.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rulemaking does not impose additional paperwork requirements for the majority of facilities affected by this rulemaking, including facilities located in rural areas. The rulemaking will not directly impose any significant service, duty or responsibility upon any county, city, town, village, school district or fire district in a rural area. This rulemaking does not directly mandate the expenditure of funds by any sector of local government. If a local government in a rural area chooses to own and operate a solid

waste management facility or a waste transportation business in the State, the rulemaking may require the additional expenditure of funds to comply with the requirements of Parts 360, 361, 362, 363, and 364, which govern those solid waste facilities and waste transportation businesses.

3. Costs: These regulations are not likely to impose any significant new direct costs on public or private sector interests in rural areas. However, if a local government or private company in a rural area owns and operates a solid waste management facility or a waste transportation business, the costs associated with compliance with the rulemaking, including cost savings, are described below, organized by Part. As discussed below, in some cases the regulations will reduce costs associated with compliance. In others, the costs may increase.

Part 360

In most instances, revisions to Sections 360.12 and 360.13 will expand the types of materials eligible for pre-determined beneficial use. Avoidance of disposal through legitimate reuse will lower costs for construction contractors, industry, municipalities and the public.

Part 361

Many proposed amendments to Part 361 would reduce or maintain current costs. Those that could increase costs include:

- The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. The estimated cost for engineering associated with the permit is approximately \$10,000.
- Subparts 361-3 and 361-4 contain revisions that include groundwater monitoring and other controls for composting and mulch facilities located on Long Island. The costs associated with these requirements will vary significantly based on the size and characteristics of the operation but could range from a few thousand dollars per site or significantly higher.

Part 362

Proposed amendments to Part 362 would reduce or maintain current costs.

Part 363

Many proposed amendments to Part 363 would reduce or maintain costs. Those that could increase costs include:

- Subpart 363-3 is being amended to add restrictions onto the exemption for the disposal of animal mortalities on farms. The revisions in Subpart 363-3 could result in additional labor time for farmers to dispose of animal carcasses. This additional labor time could translate into additional costs for farmers.

- The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.
- The Subpart 363-6 design, construction and certification requirements will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.
- The Subpart 363-6 design, construction and certification requirements will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.
- The Subpart 363-7 requirement for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

Part 364

Proposed amendments to Part 364 would reduce or maintain current costs.

Part 365

Proposed amendments to Part 365 would reduce or maintain current costs.

Part 366

Proposed amendments to Part 366 would reduce or maintain current costs.

Part 369

Proposed amendments to Part 369 would reduce or maintain current costs.

4. Minimizing adverse impact: The rulemaking is not expected to have adverse impacts on rural areas of New York State. The updated regulatory criteria for solid waste facilities that may be located in a rural area are not expected to significantly change the cost of the operation of these facilities. However, there could be increased costs for landfill owners and operators associated with Subparts 363-6 and 363-7. These regulatory changes, however, are necessary to ensure the protection of the environment. It is not expected, rural area governments, businesses and residents will see a

significant increase in the cost of solid waste management due to the rulemaking. The department has provided options for municipalities, including rural area local governments, to provide waste management services, especially for waste transfer facilities, that require registrations rather than permits and therefore significantly reduce the regulatory burden and costs.

Proper management of solid waste is necessary to protect public health, safety, and general welfare. Therefore, with respect to the revisions in Subparts 363-3, 363-5, 363-6 and 363-7, the Department did not find alternative approaches or an exemption from applicability would accomplish the same objectives for environmental protection.

5. Rural area participation: This rulemaking is a continuation of the rulemaking that became effective in November 2017, which provided significant opportunities for outreach and feedback from the regulated community, both public and private, in rural areas. Since November 2017, the Department has received significant additional feedback from members of the regulated community, including from small businesses and local governments and as discussed above has included many amendments to the Part 360 Series regulations that will reduce the regulatory burden on the regulated community.

6. Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of rule: The rulemaking is not expected to negatively affect small businesses and local governments. The rulemaking primarily updates existing regulatory criteria applicable to solid waste management facilities, in most cases providing additional flexibility and reduced regulatory burden for local governments or small businesses. 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.

2. Compliance requirements: The Department does not expect the regulations to have a negative impact on jobs and employment. The revised regulations build upon the amended regulations that were promulgated in November 2017. Since that time, the Department has seen no evidence of negative job or economic impacts caused by the new regulations.

In these revisions, adjusted requirements for C&D debris and excavated material will make it easier to handle and reuse these materials, newly added facility types will ease the regulatory burden on paint recyclers, removal of upper throughput limits on registered recyclables handling and recovery facilities will simplify their authorization, seasonal waste collection events conducted by municipalities are exempted, new allowances for registration of regulated medical waste facilities with federal authorizations will ease the regulatory burden on these facilities, and revisions to waste transporter requirements will ease the regulatory burden related to waste tracking documents, among other revisions. These regulatory provisions not only relieve burdens on the regulated community but also on Department staff.

Statutory changes related to composting facilities, mulch processors, and C&D debris facilities on Long Island that will require additional groundwater monitoring and operating requirements and prohibit siting in mines will enhance groundwater protection near these facilities but are not expected to impact jobs. Several landfill requirements that increase environmental protectiveness at the facilities are included, such as thicker geomembranes for liner construction, default double composite liners for all solid waste landfills, horizontal gas collection lines at C&D debris landfills, and prohibition on new landfills or lateral and vertical expansion of existing landfills within 1000 feet of a school or legal place of residence. Most of these requirements are not unusual in the waste industry and they are not expected to have significant impacts on jobs in the industry. Statutory changes removed the hazardous waste exclusion for wastes produced by oil and natural gas exploration and production. These adjustments, which have been included in Part 371 Series regulations, may increase costs related to these wastes are not expected to affect jobs in the state.

3. Professional services: The need for additional professional services for small businesses and local governments is not anticipated. If a local government or small business is currently operating a solid waste management facility, they may already employ professional services to facilitate the operation of that facility and compliance

with the regulatory requirements. The regulations are not expected to increase the level of professional services needed by those entities.

4. Compliance costs: These regulations are not likely to impose any significant new direct costs on small businesses or local governments. However, local governments and small businesses may own and operate solid waste management facilities or operate waste transportation businesses. If a small business or local government owns and operates a solid waste management facility or waste transportation business, the costs associated with compliance with the rulemaking, including cost savings, are described below, organized by Part. As outlined below, in some cases the regulations will reduce costs associated with compliance. In others, the costs may increase.

Part 360

In most instances, revisions to Sections 360.12 and 360.13 will expand the types of materials eligible for pre-determined beneficial use. Avoidance of disposal through legitimate reuse will lower costs for construction contractors, industry, municipalities and the public.

Part 361

The proposed amendments to Subpart 361-1 Recyclables Handling and Recovery Facilities primarily serve to clarify existing requirements, and do not add any requirements with associated application, construction or operating costs. The removal of the 250 ton per day limit on registered facilities will reduce application costs for facilities who otherwise would require a Part 360 permit.

The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. This is needed for groundwater protection but will increase the cost associated with these facilities. Most new septage storage facilities are actually tanks, so it is expected that few operations will be affected. The estimated cost for engineering associated with the permit is at about \$10,000.

Subparts 361-3 and 361-4 contain revisions that include groundwater monitoring and other controls for composting and mulch facilities located on Long Island. These requirements are required by ECL Section 15-0517 and cannot be waived. The statute requires the department to promulgate regulations requiring groundwater monitoring at composting and mulch facilities on Long Island. The costs associated with these requirements will vary significantly based on the size and characteristics of the operation but could range from a few thousand dollars per site or significantly higher.

The proposed amendments to Subpart 361-5 Construction & Demolition Debris Handling and Recovery Facilities (CDDHRFs) on balance will reduce paperwork and costs to industry. The exemption for contractors responsible for generation of materials to store them off the site of generation, in anticipation of beneficial use, will save

contractors the paperwork and costs of registration or permitting. Removal of the waste tracking document requirement will reduce duplication and related costs.

Elimination of the throughput limitation of 500 tons per day (weekly average) for registered CDDHRFs will enable more facilities to be eligible for registration, eliminating the paperwork, time and costs of a permit application. Allowing receipt of mixed loads of certain materials at registered facilities, especially concrete, brick, rock and asphalt pavement, will also enable more facilities to obtain registration instead of a permit without negative environmental impacts. The new proposed registration for storage of these materials, with no processing allowed, will accommodate the needs of the construction industry while minimizing noise and other adverse impacts to communities. Sampling requirements for outgoing fill products are significantly reduced for the cleaner fill types (Fill Type 2 and Fill Type 3), with only four analyses per year at roughly \$1000 each sample versus every 1000 cubic yards for annual costs potentially in a range of \$100,000 to \$1.0 million at a large CDDHRF. Tracking requirements in this Subpart for outgoing materials are being eliminated with associated paperwork and costs. A permit will be required, however, for a facility receiving mildly contaminated (Fill Type 4 or Fill Type 5) excavated materials with the elimination of the current registration.

The proposed amendments to Subpart 361-6 Waste Tire Handling and Recovery Facilities to exempt tire processing at farms and at illegal disposal abatement sites will eliminate a cost and paperwork burden to farmers and abatement contractors engaging in activities to convert discarded tires into usable products. Allowing alternatives to fencing for security at registered tire storage and resale facilities will make it feasible for more of these facilities to register, while still ensuring prevention of unauthorized access, and avoiding the cost and paperwork associated with a permit application.

The proposed amendments to Subpart 361-7, Scrap Metal and Vehicle Dismantling Facilities, primarily clarify existing requirements and rectify potential inconsistency with State law. Collection of metal shavings and cutting oils ("swarf") is a new requirement for scrap metal processors, but in most cases will coincide with industry best management practices and not impose additional costs.

Part 362

Subpart 362-1 is being amended to eliminate the requirement for facilities that only combust or thermally treat uncontaminated, unadulterated wood to obtain a Part 360 registration, thus eliminating the costs to these facilities associated with obtaining a Part 360 registration and completing solid waste management facility annual report forms. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to allow small municipal transfer facilities to manage source-separated recyclables without the need for a Part 360 authorization, thereby eliminating the costs associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to add an exemption for municipal transfer facilities that receive no more than 3,000 tons per year of yard trimmings. This exemption will encourage municipalities to properly manage yard trimmings and will eliminate costs to municipalities associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to add an exemption for municipalities that hold seasonal collection events, thereby eliminating the costs associated with the Part 360 registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Facilities transferring septage waste from a single transporter using no more than two vehicles for the collection of residuals from a composting toilet will be allowed to operate under a Part 360 registration rather than a Part 360 permit, thereby reducing the costs associated with the Part 360 authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

Subpart 362-3 is being amended to allow facilities that transfer more than 250 tons per day of source-separated recyclables to operate under a Part 360 registration rather than a Part 360 permit, thereby reducing the costs associated with the Part 360 authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

Subpart 362-5 is being added and is expected to reduce costs for collection sites operating under a department-approved postconsumer paint collection program plan. This Subpart will allow facilities that would have otherwise required a permit to obtain a registration. Costs associated with these registrations should be minimal. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

Part 363

Subpart 363-2 is being amended to remove the exemption for disposal of up to 5,000 cubic yards of concrete, asphalt, brick, glass, rock and general fill originating from construction or demolition sites. The addition of a grade adjustment pre-BUD in Section 360.12 provides an alternative management approach for these materials and therefore this amendment is not expected to result in increased costs for the management of these materials.

Subpart 363-2 is being amended to add an exemption for disposal within a state, municipal or utility right-of-way of tree debris generated by the clearing of the right-of-way. This is expected to decrease costs associated with managing and removing tree debris.

Subpart 363-3 is being amended to add restrictions onto the exemption for the disposal of animal mortalities on farms. The revisions in Subpart 363-3 could result in additional labor time for farmers to dispose of animal carcasses. This additional labor time could translate into additional costs for farmers.

The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. This could potentially result in limiting the life of eight landfills in the state due to their inability to expand, resulting in increased disposal and transportation costs for residences and municipalities in the affected areas. In addition, when a landfill laterally or vertically expands, the landfill adds disposal capacity and for each ton of added disposal capacity the landfill can charge a tip fee for disposal of waste into the expansion area. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.

The Subpart 363-6 design, construction and certification requirements will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.

The Subpart 363-6 design, construction and certification requirements will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.

The Subpart 363-7 requirement for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

Part 364

Part 364 exemption and registration requirements for waste are being amended to limit exempt transport of waste tires to 20 or fewer and registered transport to 80 or fewer. Previous regulations allow exempt transport of 80 or fewer waste tires. There are no fees and minimal expenses associated with Part 364 registrations, so these changes are not expected to increase waste transporter costs.

Current Part 364 regulations require that transportation of used oil in any volume requires a Part 364 permit. The proposed revisions include as a new exemption the

transport of 55 gallons or less of waste oil from Part 364 requirements. This will reduce the regulatory burden and costs associated with transport of small volumes of waste oil.

The proposed revisions allow for an equivalent document that has been approved by the Department to be used in place of the waste tracking document provided by the Department. This change will reduce the cost of compliance for transportation companies that utilize their own ticketing system and can adjust it to meet the Department's requirements.

The Department found that the requirement for the return of waste tracking documents to the Department was an unnecessary burden, and in the amended revisions is removing those requirements, instead requiring that the waste transporter provide copies of the completed waste tracking documents only to the receiving user or facility within 15 days of the waste delivery. This change is expected to reduce the compliance and paperwork costs imposed on waste transporters.

Part 365

Allowing generators of non-radiological RMW to keep collection and storage containers until full or showing evidence of putrefaction, in various patient care areas, laboratories, and for pre-disposal storage below 50 pounds per month, is anticipated to reduce the number of shipments of RMW for disposal and, accordingly, reduce costs to generators.

Expanding registration eligibility to treatment facilities at Biosafety Level 3 and 4 laboratories registered under a Federal Select Agent Program (FSAP) registration will reduce costs associated with obtaining a facility permit, even though these facilities will still need to meet substantive operating requirements of a permitted facility.

Part 366

Revisions to Part 366 Local Solid Waste Management Planning primarily serve to clarify existing requirements and do not increase or reduce costs to the planning units.

Part 369

The amendments to Part 369 clarify requirements that the Department currently applies to grant applications so there is no cost impact to the regulated community.

5. Economic and technological feasibility: The Department has focused on revising the regulations in a manner that is technically sound and economical. The regulations that apply to facilities that are currently subject to regulation are not expected to significantly alter the operation or costs associated with those operations. However, changes in the law required the addition of new facility requirements in the regulations, such as

groundwater sampling and protections at some Long Island facilities and enhanced construction and groundwater protections standards at certain solid waste landfills. In most cases, however, the regulations include reduced regulatory oversight, through expanded exemptions, predetermined beneficial use determinations, and registration provisions, which will reduce the costs associated with some solid waste facilities and activities.

6. Minimizing adverse impact: These regulations will not impose any direct costs on small businesses or local governments. However, local governments and small businesses may own and operate solid waste management facilities or operate waste transportation businesses. If a small business or local government owns and operates a solid waste management facility or waste transportation business, the costs associated with compliance with the rulemaking, including cost savings, are described above. In some cases, the regulations will reduce costs associated with compliance. In others, the costs may increase. However, the department has provided options for municipalities to provide waste management services, especially for waste transfer facilities, that require registrations rather than permits and therefore significantly reduce the regulatory burden and costs. In most other cases, proper management of solid wastes is necessary to protect public health, safety, and general welfare. Therefore, the rule does not exempt small businesses or local governments from its provisions as allowed under SAPA Section 202-b(1)(c).

7. Small business and local government participation: This rulemaking is a continuation of the rulemaking that became effective in November 2017, which provided significant opportunities for outreach and feedback from the regulated community. Since November 2017, the department has received significant additional feedback from members of the regulated community, including from small businesses and local governments and as discussed above has included many amendments to the Part 360 Series regulations that will reduce the regulatory burden on the regulated community.

8. For rules that either establish or modify a violation or penalties associated with a violation: Pursuant to SAPA 202-b (1-a)(a) and (b), the rulemaking includes transition provisions that provide adequate time for regulated parties to come into compliance with any new provisions. Otherwise, there is no such cure period included in the rule because of the potential for adverse impacts on human health and the environment. Cure periods for the illegal management or disposal of solid waste are neither desirable nor recommended as compliance is required to ensure the general welfare of the public and the environment is protected.

9. Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

Rural Area Flexibility Analysis

The rulemaking will amend the Department of Environmental Conservation's (Department) regulations governing solid waste management activities including facilities, waste transporters, local solid waste management planning, and state assistance projects that became effective in November 2017. The amendments will in some cases increase requirements on facilities and activities in order to improve environmental protection. In other cases, the amendments will simplify compliance for the regulated community in situations where the Department has determined that, due to the nature of the solid waste or the type of activity under consideration, the amendment will not negatively impact human health or the environment. In addition, developments in solid waste management and legislative initiatives have led to new types of solid waste collection and management; in these cases, new designated facility types within the Part 360 Series will allow for simpler and more effective collection and management while continuing to protect human health and the environment.

1. Types and estimated numbers of rural areas: All areas of the state, including rural areas, generate solid waste and will be affected directly or indirectly by the rulemaking.
2. Reporting, recordkeeping and other compliance requirements; and professional services: The rulemaking does not impose additional paperwork requirements for the majority of facilities affected by this rulemaking, including facilities located in rural areas. The existing regulations require annual reports from most solid waste management facilities, and these requirements continue under the amended regulations. The regulations allow electronic submissions whenever possible to ease the transfer of data and information, and the amendments to waste transporter requirements will ease the recordkeeping and reporting requirements. The Department developed new forms to simplify and standardize electronic reporting to ease the paperwork requirements imposed by the regulations and will continue to do so. The rulemaking will not directly impose any significant service, duty or responsibility upon any county, city, town, village, school district or fire district in a rural area. This rulemaking does not directly mandate the expenditure of funds by any sector of local government. If a local government in a rural area chooses to own and operate a solid waste management facility or a waste transportation business in the State, the rulemaking may require the additional expenditure of funds to comply with the requirements of Parts 360, 361, 362, 363, and 364, which govern those solid waste facilities and waste transportation businesses.
3. Costs: These regulations are not likely to impose any significant new direct costs on public or private sector interests in rural areas. However, rural area local governments may own and operate solid waste management facilities or operate waste transportation businesses. If a local government or private company in a rural area owns and operates a solid waste management facility, the costs associated with compliance with the rulemaking, including cost savings, are described below, organized by Part. As discussed below, in some cases the regulations will reduce costs associated with compliance. In others, the costs may increase.

Part 360

In most instances, revisions to Sections 360.12 and 360.13 will expand the types of materials eligible for pre-determined beneficial use. Avoidance of disposal through legitimate reuse will lower costs for construction contractors, industry, municipalities and the public.

Part 361

The proposed amendments to Subpart 361-1 Recyclables Handling and Recovery Facilities primarily serve to clarify existing requirements, and do not add any requirements with associated application, construction or operating costs. The removal of the 250 ton per day limit on registered facilities will reduce application costs for facilities who otherwise would require a Part 360 permit.

The revisions to Subpart 361-2 include a requirement that mandates a permit versus a registration for the storage of septage. This is needed for groundwater protection but will increase the cost associated with these facilities. Most new septage storage facilities are actually tanks, so it is expected that few operations will be affected. The estimated cost for engineering associated with the permit is approximately \$10,000.

Subparts 361-3 and 361-4 contain revisions that include groundwater monitoring and other controls for composting and mulch facilities located on Long Island. These requirements are required by ECL Section 15-0517 and cannot be waived. The statute requires the Department to promulgate regulations requiring groundwater monitoring at composting and mulch facilities on Long Island. The costs associated with these requirements will vary significantly based on the size and characteristics of the operation but could range from a few thousand dollars per site or significantly higher.

The proposed amendments to Subpart 361-5 Construction & Demolition Debris Handling and Recovery Facilities (CDDHRFs) on balance will reduce paperwork and costs to industry. The exemption for contractors responsible for generation of materials to store them off the site of generation, in anticipation of beneficial use, will save contractors the paperwork and costs of registration or permitting. Removal of the waste tracking document requirement will reduce duplication and related costs.

Elimination of the throughput limitation of 500 tons per day (weekly average) for registered CDDHRFs will enable more facilities to be eligible for registration, eliminating the paperwork, time and costs of a permit application. Allowing receipt of mixed loads of certain materials at registered facilities, especially concrete, brick, rock and asphalt pavement, will also enable more facilities to obtain a registration instead of a permit without negative environmental impacts. The new proposed registration for storage of these materials, with no processing allowed, will accommodate the needs of the construction industry while minimizing noise and other adverse impacts to

communities. Sampling requirements for outgoing fill products are significantly reduced for the cleaner fill types (Fill Type 2 and Fill Type 3), with only four analyses per year at roughly \$1000 each sample versus every 1000 cubic yards for annual costs potentially in a range of \$100,000 to \$1.0 million at a large CDDHRF. Tracking requirements in this Subpart for outgoing materials are being eliminated with associated paperwork and costs. A permit will be required, however, for a facility receiving mildly contaminated (Fill Type 4 or Fill Type 5) excavated materials with the elimination of the current registration.

The proposed amendments to Subpart 361-6 Waste Tire Handling and Recovery Facilities to exempt tire processing at farms and at illegal disposal abatement sites will eliminate a cost and paperwork burden to farmers and abatement contractors engaging in activities to convert discarded tires into usable products. Allowing alternatives to fencing for security at registered tire storage and resale facilities will make it feasible for more of these facilities to register, while still ensuring prevention of unauthorized access, and avoiding the cost and paperwork associated with a permit application.

The proposed amendments to Subpart 361-7, Scrap Metal and Vehicle Dismantling Facilities, primarily clarify existing requirements and rectify potential inconsistency with State law. Collection of metal shavings and cutting oils (“swarf”) is a new requirement for scrap metal processors, but in most cases will coincide with industry best management practices and not impose additional costs.

Part 362

Subpart 362-1 is being amended to eliminate the requirement for facilities that only combust or thermally treat uncontaminated, unadulterated wood to obtain a registration, thus eliminating the costs to these facilities associated with obtaining a registration and completing solid waste management facility annual report forms. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to allow small municipal transfer facilities, which are more likely to be located in rural areas, to manage source-separated recyclables without the need for a Part 360 authorization, thereby eliminating the costs associated with the registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to add an exemption for municipal transfer facilities that receive no more than 3,000 tons per year of yard trimmings. This exemption will encourage municipalities to properly manage yard trimmings and will eliminate costs to municipalities associated with the registration. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Subpart 362-3 is being amended to add an exemption for municipalities that hold seasonal collection events, thereby eliminating the costs associated with the

registration. Seasonal collection events are more likely to occur in rural areas. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually.

Facilities transferring septage waste from a single transporter using no more than two vehicles for the collection of residuals from a composting toilet will be allowed to operate under a registration rather than a permit, thereby reducing the costs associated with the authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a permit, this will result in a reduced cost to the regulated community.

Subpart 362-3 is being amended to allow facilities that transfer more than 250 tons per day of source-separated recyclables to operate under a registration rather than a permit, thereby reducing the costs associated with the authorization process. Costs associated with registrations are estimated at \$3,000 to \$5,000 annually. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

Subpart 362-5 is being added and is expected to reduce costs for collection sites operating under a Department-approved postconsumer paint collection program plan. This Subpart will allow facilities that would have otherwise required a permit to obtain a registration. Costs associated with these registrations should be minimal. When compared to the \$20,000 to \$50,000 for a Part 360 permit, this will result in a reduced cost to the regulated community.

Part 363

Subpart 363-2 is being amended to remove the exemption for disposal of up to 5,000 cubic yards of concrete, asphalt, brick, glass, rock and general fill originating from construction or demolition sites. The addition of a grade adjustment predetermined beneficial use in Section 360.12 provides an alternative management approach for these materials and therefore this amendment is not expected to result in increased costs for the management of these materials.

Subpart 363-2 is being amended to add an exemption for disposal within a state, municipal or utility right-of-way of tree debris generated by the clearing of the right-of-way. This is expected to decrease costs associated with managing and removing tree debris.

Subpart 363-3 is being amended to add restrictions onto the exemption for the disposal of animal mortalities on farms. The revisions in Subpart 363-3 could result in additional labor time for farmers to dispose of animal carcasses. This additional labor time could translate into additional costs for farmers.

The siting requirements in Subpart 363-5 are being amended to prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence. This could potentially result in limiting the life of eight landfills

in the state due to their inability to expand, resulting in increased disposal and transportation costs for residences and municipalities in the affected areas. In addition, when a landfill laterally or vertically expands, the landfill adds disposal capacity and for each ton of added disposal capacity the landfill can charge a tip fee for disposal of waste into the expansion area. The proposed revision prohibiting lateral and vertical expansion could cause the landfills to lose between \$60 per ton and \$80 per ton in tip fees for this lost airspace.

The Subpart 363-6 design, construction and certification requirements will require the use of an 80-mil geomembrane in the primary and secondary composite liner systems. The material, installation and certification costs for the 80-mil geomembrane could result in an increased cost to a facility of approximately \$3,250 per acre.

The Subpart 363-6 design, construction and certification requirements will require a double composite liner system for construction and demolition debris landfills, papermill sludge landfills, and municipal waste combustion ash monofills unless an alternative liner is justified. The material, installation and certification of the additional liner system components could result in an increased cost to a facility of between \$100,000 to \$150,000 per acre. This will also result in increased operating, maintenance, monitoring and reporting costs between \$10,000 to \$20,000 annually.

The Subpart 363-7 requirement for landfills that accept construction and demolition debris to install horizontal gas collection lines to control odors and reduce the amount of landfill gas emissions is expected to result in an increased cost to a facility of approximately \$45 per liner foot of collection line plus approximately \$7,000 for the wellhead and tie-in infrastructure and the condensate trap.

Part 364

Part 364 exemption and registration requirements for waste are being amended to limit exempt transport of waste tires to 20 or fewer and registered transport to 80 or fewer. Current regulations allow exempt transport of 80 or fewer waste tires. There are no fees and minimal expenses associated with Part 364 registrations, so these changes are not expected to increase waste transporter costs.

Current Part 364 regulations require that transportation of used oil in any volume requires a Part 364 permit. The proposed revisions include as a new exemption the transport of 55 gallons or less of waste oil from Part 364 requirements. This will reduce the regulatory burden and costs associated with transport of small volumes of waste oil.

The proposed revisions allow for an equivalent document that has been approved by the Department to be used in place of the waste tracking document provided by the Department. This change will reduce the cost and ease the burden of compliance for transportation companies that utilize their own ticketing system, allowing them to adjust their ticketing system to meet the Department's requirements.

The Department found that the requirement for the return of waste tracking documents to the Department was an unnecessary burden, and is removing those requirements, instead requiring that the waste transporter provide copies of the completed waste tracking documents only to the receiving user or facility within 15 days of the waste delivery. This change is expected to reduce the compliance and paperwork costs imposed on waste transporters.

Part 365

Allowing generators of non-radiological RMW to keep collection and storage containers until full or showing evidence of putrefaction, in various patient care areas, laboratories, and for pre-disposal storage below 50 pounds per month, is anticipated to reduce the number of shipments of RMW for disposal and, accordingly, reduce costs to generators.

Expanding registration eligibility to treatment facilities at Biosafety Level 3 and 4 laboratories registered under a Federal Select Agent Program (FSAP) registration will reduce costs associated with obtaining a facility permit, even though these facilities will still need to meet substantive operating requirements of a permitted facility.

Part 366

Revisions to Part 366 Local Solid Waste Management Planning primarily serve to clarify existing requirements and do not increase or reduce costs to the planning units.

Part 369

The amendments to Part 369 clarify requirements that the Department currently applies to grant applications so there is no cost impact to the regulated community.

4. Minimizing adverse impact: The rulemaking is not expected to have adverse impacts on rural areas of New York State. The updated regulatory criteria for solid waste facilities that may be located in a rural area are not expected to significantly change the cost of the operation of these facilities. However, there could be increased costs for landfill owners and operators associated with Subparts 363-6 and 363-7. These regulatory changes, however, are necessary to ensure the protection of the environment. It is not expected, rural area governments, businesses and residents will see a significant increase in the cost of solid waste management due to the rulemaking. The Department has provided options for municipalities, including rural area local governments, to provide waste management services, especially for waste transfer facilities, that require registrations rather than permits and therefore significantly reduce the regulatory burden and costs.

Proper management of solid waste is necessary to protect public health, safety, and general welfare. Therefore, with respect to the revisions in Subparts 363-3, 363-5, 363-6 and 363-7, the Department did not find alternative approaches or an exemption from applicability would accomplish the same objectives for environmental protection.

5. Rural area participation: This rulemaking is a continuation of the rulemaking that became effective in November 2017, which provided significant opportunities for outreach and feedback from the regulated community, both public and private, in rural areas. Since November 2017, the Department has received significant additional feedback from members of the regulated community, including from small businesses and local governments and as discussed above has included many amendments to the Part 360 Series regulations that will reduce the regulatory burden on the regulated community.

6. Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

JOB IMPACT STATEMENT

The New York State Department of Environmental Conservation (Department) is revising 6 NYCRR Parts 360-366 and 369 (Part 360 Series) and 6 NYCRR Parts 371 and 377. The revised regulations will apply statewide. The Department does not expect the revised regulations to have a negative impact on jobs and employment opportunities in the State. The revisions update the existing regulations that relate to solid waste management facilities, waste transportation, local solid waste management planning, and state assistance grants for recycling and household hazardous waste collection. Amendments to the Part 360 Series regulations that were adopted in 2017 will improve environmental protection, institute new facility types, and simplify compliance for the regulated community.

1. NATURE OF IMPACT

The Department does not expect the revised regulations to have a negative impact on jobs and employment. The revised regulations build upon the amended regulations that were promulgated in November 2017. Since that time, the Department has seen no evidence of negative job or economic impacts caused by the new regulations.

In these revisions, adjusted requirements for C&D debris and excavated material will make it easier to handle and reuse these materials, newly added facility types will ease the regulatory burden on paint recyclers, removal of upper throughput limits on registered recyclables handling and recovery facilities will simplify their authorization, seasonal waste collection events conducted by municipalities

are exempted, new allowances for registration of regulated medical waste facilities with federal authorizations will ease the regulatory burden on these facilities, and revisions to waste transporter requirements will ease the regulatory burden related to waste tracking documents, among other revisions. These regulatory provisions not only relieve burdens on the regulated community but also on Department staff.

Statutory changes related to composting facilities, mulch processors, and C&D debris facilities on Long Island that will require additional groundwater monitoring and operating requirements and prohibit siting in mines will enhance groundwater protection near these facilities but are not expected to impact jobs. Several landfill requirements that increase environmental protectiveness at the facilities are included, such as thicker geomembranes for liner construction, default double composite liners for all solid waste landfills, horizontal gas collection lines at C&D debris landfills, and prohibition on new landfills or lateral and vertical expansion of existing landfills within 1000 feet of a school or legal place of residence. Most of these requirements are not unusual in the waste industry and they are not expected to have significant impacts on jobs in the industry. Statutory changes removed the hazardous waste exclusion for wastes produced by oil and natural gas exploration and production. These revisions, which have been included in Part 371 Series regulations, may increase costs related to these wastes, but are not expected to affect jobs in the state.

2. CATEGORIES AND NUMBERS AFFECTED

The revised regulations are not expected to negatively affect employment opportunities.

3. REGIONS OF ADVERSE IMPACT

There are no regions of the State expected to be negatively impacted from the revised regulations. Rules related to reuse of excavated material establish enhanced reuse and transportation requirements in areas of the state where impacts from illegal disposal have been significant. These areas include Long Island, the New York City metro area and surrounding jurisdictions, and the New York City watershed. In general, the revisions reflect current industry practices and address new facility types based on feedback from the regulated community.

4. MINIMIZING ADVERSE IMPACT

The revised regulations are not expected to have an adverse impact on jobs and employment. The Department already regulates the solid waste management activities covered by the regulations. For most facilities and activities covered by the regulations, the revisions will have no direct impact on jobs and employment. The revised regulations continue the use of registrations in lieu of full permits for both solid waste management facilities and for solid waste transporters to ease regulatory burden on these industry sectors while still allowing the Department to provide proper oversight of these activities.

5. SELF-EMPLOYMENT OPPORTUNITIES

The revised regulations are not expected to negatively impact self-employment opportunities.

6. INITIAL REVIEW OF THE RULE

The Department will conduct an initial review of the regulations within three years of promulgation as required by SAPA § 207.