



Department of
Environmental
Conservation

Revised Part 360 Series Solid Waste Management Facility Regulations

Air & Waste Management Association – Niagara Frontier Section
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Background

- First major revision in nearly 25 years
- The Part 360 series rulemaking process formally began in February 2016
- Conducted extensive public outreach that included two public comment periods, five public hearings, and more than 25 workshops and technical meetings with stakeholders
- Reviewed and provided responses to thousands of comments.
- The Regulations were published in the State Register and ENB and posted on DEC website on 9/20/17
- **Regulations became effective on 11/4/17**

Part 360 Revised Series Structure

- Part 360 General Requirements
- Part 361 Material Recovery Facilities
- Part 362 Combustion, Thermal Treatment, Transfer, and Collection Facilities
- Part 363 Landfills
- Part 364 Waste Transporters
- Part 365 Regulated Medical Waste and Other Infectious Wastes
- Part 366 Local Solid Waste Management Planning
- Part 369 State Assistance Projects

Part 360

Solid Waste Management Facilities General Requirements

Part 360 – SWMF Program Structure

- **Exempt Facilities**
 - Established in regulation
 - No additional approval from DEC
- **Registered Facilities**
 - Facility types established in regulation
 - Operating requirements established in regulation
 - Ministerial Action: no SEQR or UPA
- **Permitted Facilities**
 - Permit application reviewed by DEC
 - Facility-specific special conditions can be applied
 - SEQR and UPA apply

Section 360.4

Transition

360.4 – Transition Requirements

- Default: New regulations apply May 3, 2018
- Existing registered facilities:
180 days to apply for a new registration, except for CDDHRFs which have 545 days
- Existing permitted facilities:
Permit in effect continues until renewal or modification
- Existing exempt/registered facility now requiring permit:
Must have a complete application on file with the Department within 365 days, except for CDDHRFs which have 545 days

360.4 – Transition Requirements - Exempt Facility, Transporter or Collection Event

Exempt → Registration

- Must comply with registration notification within 180 days
- Must remain in compliance with the requirements of the exemption until the new registration is validated by the Department

Exempt → Permit

- Must have a complete application on file with the Department within 365 days

360.4 – Transition Requirements - Retrofitting

- Retrofitting of existing facilities that were exempt, registered, or permitted is **not required**
- **New** structural components built after November 4, 2017 must comply with new requirements

Section 360.12

Beneficial Use

Part 360 Transition Requirements - BUDs

- Pre-determined BUDs
 - Expire May 3, 2018 if no longer included in section 360.12
 - May be eligible for a case-specific BUD
- Case-specific BUDs
 - Expire on May 3, 2018 unless a renewal request is submitted by that date
 - Exception – BUDs with specific expiration dates

360.12 – Beneficial Use

Subdivisions:

- (a) Applicability
- (b) Unacceptable Uses**
- (c) Pre-determined Beneficial Uses (28)
- (d) Case-specific beneficial use determinations – general
- (e) Case-specific BUDs – navigational dredged material**
- (f) Case-specific BUDs – gas storage brine or production brine**

360.12(d) – Case-Specific Beneficial Use Determinations - General

- Review criteria (“essential nature is use not disposal,” “managed as a commodity,” “will not adversely affect health and the environment,” etc.)
- Lower of 6 NYCRR 375-6.8(b) Protection of Public Health and Protection of Groundwater Soil Cleanup Objectives for soil-like materials placed on the land
- All case-specific BUDs expire no more than 5 years from effective date
- Annual reporting for all case-specific BUDs
- Right to hearing for revocation

Section 360.13

Special Requirements for Pre-Determined Beneficial Use of Fill Material

360.13(a) – Applicability

Section 360.13 allows for the self-assessment of fill materials for appropriate use within 360.13 criteria

Section 360.13 DOES NOT:

- Require sampling of material sent to CDDHRFs
- Require all excavated soil or fill to be sampled
- Prevent anyone from petitioning for a case-specific BUD pursuant to 360.12(d) for fill material

360.13(c) – Exemption of On-Site Reuse of Fill Material

- Materials excavated at a site can be used anywhere on the site in areas of similar **physical** characteristics
- If contaminated material will be used on a site with public access, minimum of 1 foot of clean soil cover must be placed
- Not applicable to Part 375 program sites

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
General Fill	<p>Any setting where the fill material meets the engineering criteria, for use, except:</p> <ol style="list-style-type: none"> 1. Undeveloped land; and 2. Agricultural crop land. 	Only soil, sand, gravel or rock; no non-soil constituents.	Lower of Protection of Public Health-Residential Land Use and Protection of Groundwater in Table 375-6.8(b) of this Title.

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
Restricted-Use Fill	<p>For embankments or subgrade in transportation corridors, or on sites where in-situ materials exceed Restricted-Use Fill or Limited-Use Fill criteria.</p> <p>Must be placed above the seasonal high water table.</p>	Up to 40 percent by volume inert, non-putrescible non-soil constituents.	<p>General Fill criteria except that up to 3 mg/kg total benzo (a)pyrene (BAP) equivalent.</p> <p>No detectable asbestos.</p>

360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
Limited-Use Fill	Under foundations and pavements above the seasonal high water table	No volume limit for inert, non-putrescible non-soil constituents.	General Fill criteria, except up to Protection of Public Health-Commercial SCOs for metals; up to 3 mg/kg benzo(a)pyrene equivalent is allowed. No detectable asbestos.

Section 360.14

Exempt Facilities

360.14 – Exempt Facilities

- Management of waste (other than disposal) at site of generation or other location in the state under the same ownership or control as the site of waste generation
 - Applicable across municipal agencies
 - Not available for 7 specific facilities (slaughterhouse waste composting, deconstructing manufactured homes, surface impoundments for coal ash, others)
- Non-putrescible waste storage on vehicle \leq 10 days (with conditions)
- Rendering facility
- **Facility storing less than 1000 waste tires**
- Pharmaceutical waste collection (with conditions)

Section 360.15

Registered Facilities, Transporters and Collection Events

360.15 - Registered Facilities, Transporters and Collection Events

- Certain Facilities are eligible for registration instead of permitting
- Registrations are ministerial actions
- Required to submit a registration form **and declare the intended storage volumes and maximum throughput limits**
- **Registrations valid for 5 years** (except for waste transporters and HHW collection events)
- **Two or more registrations at the same site may require a permit if potential to cause significant adverse impacts exist**
- **Registered activity at a permitted facility may be required to be included facility's permit**
- Department may require financial assurance

Section 360.22

Financial Assurance

360.22 – Financial Assurance

- Acceptable mechanism: Trust Fund, Surety Bond Guaranteeing Payment, Letter of Credit, Local Gov't Financial Test, Local Gov't Guarantee
- **Standby Trust Fund only required for Bonds or LOCs \geq \$50,000**
- Specific facilities required to provide financial assurance, and DEC has authority to require it of any registered or permitted facility
- Post-closure care and Custodial case cost estimates must be based on a rolling 30-year periods
- **Initial custodial care cost estimate must be submitted as part of the custodial case demonstration**

360.22 – Financial Assurance

- Transfer of fully funded post-closure mechanism from private landfill operator to municipal landfill owner upon closure or end of operator responsibility
- Allowance for reducing financial assurance required by DEC by the amount of financial assurance required for the same facility by another municipality
- Specific wording for trust funds, surety bonds, LOCs now included in regulation
- Contingency factor – staggered as cost estimate increased
 - 15% for < \$1 million, 10% for \$100,000 - \$1 million, 5% for > \$1 million

Part 361

Material Recovery Facilities

Part 361 Material Recovery Facilities

Subpart 361-1 Recyclables Handling and Recovery Facilities

Subpart 361-2 Land Application and Associated Storage Facilities

Subpart 361-3 Composting and Other Organics Processing Facilities

Subpart 361-4 Mulch Processing Facilities

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

Subpart 361-6 Waste Tire Handling and Recovery Facilities

Subpart 361-7 Metal Processing and Vehicle Dismantling Facilities

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

Subpart 361-9 Navigational Dredge Material Handling and Recovery Facilities

Subpart 361-1

Recyclables Handling and Recovery Facilities

361-1 – Recyclables Handling and Recovery Facilities – Exempt & Registered Facilities

Exempt Facilities

- Take-back sites operated by retailers or wholesalers for their products or similar of recycled
- Sites operated by government or not for profit organizations that take-back consumer goods for reuse or secondary marketing

Registered Facilities

- Facilities that accept 250 tons or less per day (weekly basis) of source-separated nonputrescible recyclables based on a weekly average and have a residue rate below 15%

361-1 – Recyclables Handling and Recovery Facilities

Operating Requirements:

- Only receive source-separated, nonputrescible recyclables
- Recyclables must be stored in a manner which maintains recyclability
- **BUD material can be stored without time restriction so long as storage volumes are not exceeded**
- **Storage of unprocessed/processed recyclables can be longer than 180 days with DEC approval**

Subpart 361-3

Composting and Other Organics Recycling Facilities

361-3 – Composting and Other Organics Recycling Facilities – Exempt Facilities

- On-site (no sanitary)
- < 1000 lbs per week SSO
- < 3000 cubic yards/yr Yard Trimmings
- Animal mortalities on a farm. No more than 10 per year if not on a CAFO
- Animal mortalities on property controlled by State or municipality
- Animal manure and bedding
- On a CAFO (no sanitary)

361-3 – Composting and Other Organics Recycling Facilities – Registered Facilities

- 3000 – 10,000 cubic yards/yr Yard Trimmings
- 5000 cubic yards of SSO per year
- Animal mortalities
- Digestate, if specified

Subpart 361-4

Mulch Processing Facilities

361-4 – Mulch Processing Facilities – Exempt Facilities

- On-site
- < 10,000 cubic yards provided the pile size criteria are followed and 10 feet is maintained between piles
- Storm debris from a disaster
- Quarantine materials

361-4 – Mulch Processing Facilities – Registered Facilities

- More than 10,000 cubic yards but less than 25,000 cubic yards, provided:
 - A program is in place to keep contaminated wood out
 - The facility does not accept C&D debris
 - Material is processed within 12 months
 - Pile sizes: Unprocessed/Rough Grind: 25' high x 30' wide
Double Grind/ Long Island: 15' high x 30' wide
 - Temperature monitoring, buffers, restacking to avoid temperatures above 140°F, runoff controls

Subpart 361-5

Construction & Demolition Debris Handling and Recovery Facilities

361-5 – C&D Debris Handling and Recovery Facilities – Registered Facilities

Facilities receiving **less than 500 tons/day** (weekly basis) of:

- Concrete, Brick, & Rock
- **Asphalt Pavement or Millings**
- **Asphalt Roofing Shingles (no asbestos)**
- **Gypsum Wallboard**
- Unadulterated, Uncontaminated Wood
- **Uncontaminated Soil**
- **Restricted-Use Soil/Limited-Use Soil (cannot be combined with Uncontaminated Soil)**
- **Case-Specific BUD material derived from C&D Debris**
- **Combination of materials above**

361-1 – C&D Debris Handling and Recovery Facilities

Operating Requirements:

- Throughput and Storage Volumes according to registration or permit
- Management of Gypsum Wallboard, mixed C&D Debris must be in an enclosed building (Existing facilities do not need to retrofit)
- Transportation from **Registered** and Permitted Facility requires Tracking Form - **Fill material & non-BUD material**
- **Sampling of all residue and fill material leaving facility is required**

Subpart 361-8

Used Cooking Oil and Yellow Grease Processing Facilities

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

Exempt Facilities:

- Facilities receiving <1000 gallons per year and resultant fuel not offered for sale

Registered Facilities:

- Facility receiving < 500,000 gallons

Operating Conditions:

- Secondary Containment, overfill prevention, fire and building code compliance, storage time limits

Part 362

Combustion, Thermal Treatment, Transfer, and Collection Facilities

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

Subpart 362-1 Combustion Facilities and Thermal Treatment Facilities

Subpart 362-2 Municipal Solid Waste Processing Facilities

Subpart 362-3 Transfer Facilities

Subpart 362-4 Household Hazardous Waste Collection Facilities and Events

Subpart 362-1

Combustion Facilities and Thermal Treatment Facilities

362-1 – Combustion Facilities and Thermal Treatment Facilities

Exemptions:

- Combustion Facility regulated under 10 NYCRR Part 70 that treats RMW on-site.
- **Animal Crematory regulated under 6 NYCRR 219**
- **Facility that combusts alternative fuel authorized under 6 NYCRR Part 212 or 227**

362-1 – Combustion Facilities and Thermal Treatment Facilities

Registered Facilities:

- Facility that combusts/thermally treats waste tires
- Facility that combusts/thermally treats unadulterated, uncontaminated wood
- Facility that combusts or thermally treats used cooking oil/yellow grease
- Facility that stores, prior to combustion, alternative fuel in an enclosed building/trailer/container

Subpart 362-4

Household Hazardous Waste Collection Facilities and Events

362-4 – Household Hazardous Waste Collection Facilities and Events

- Registered Collection Events
 - No more than 24 days per calendar year
 - Notify regional DEC office at least 30 days before
 - Collection Event Plan
 - Remove materials within 3 days
 - Registration valid for one year

- Permitted Collection Facility
 - Satellite collection event criteria
 - Collection Event Plan

Part 363

Landfills

363 – Landfills – Exempt Facilities

- A tree debris disposal facility (except in Nassau and Suffolk Counties) used for the disposal of tree debris provided the facility:
 - Does not accept a fee or other form of consideration
 - The tree debris is only accepted during daylight hours
 - Tree debris is placed above the seasonal high groundwater table and not in surface water
 - **No more than 1 acre of the facility is used for tree debris disposal over the lifetime of the facility**

363 – Landfills – Exempt Facilities

- A facility (except in Nassau or Suffolk Counties) where only recognizable, uncontaminated concrete or concrete products, asphalt pavement, brick, glass, rock and general fill from construction and demolition activities, is accepted for disposal provided:
 - Does not accept a fee or other form of consideration
 - The waste is only accepted during daylight hours
 - The waste is placed above the seasonal high groundwater table and not in surface water
 - **The waste does not include residues from C&D debris recovery and handling facilities**
 - **No more than a total of 5,000 cubic yards of waste is received during the lifetime of the facility**

363 – Landfills – Exempt Facilities

- A facility (except in Nassau or Suffolk Counties) where waste generated by state or municipal highway projects and managed on highway rights-of-way or municipally owned properties is accepted, consisting only of recognizable, uncontaminated concrete or concrete products, asphalt pavement, brick, glass, rock and general fill, and restricted-use fill from construction and demolition activities provided:
 - The waste is placed above the seasonal high groundwater table and not in surface water
 - The waste does not include residues from C&D debris recovery and handling facilities

363-3 – Landfills – Inactive Disposal Facilities

Notifications for inactive disposal facilities:

The owner or operator of a disposal facility at which waste acceptance ceased prior to October 9, 1993 must notify the department in writing, of:

- (a) Any plan to disturb...
- (b) The discovery of exposed waste, surface discharge of leachate...

363-7 – Landfills – Operating Requirements

- Radiation detectors required at landfills which receive MSW or authorized drilling and production wastes
- Prohibition on flowback water, brine, and residues from oil/gas production
- Alternative operating cover must be identified in the facility's permit as a separate annual tonnage and be reported to the department

Part 364

Waste Transporters

Part 364 Waste Transporters

Subpart 364-1 General

Subpart 364-2 Exemptions

Subpart 364-3 **Registrations**

Subpart 364-4 Permits

Subpart 364-5 Recordkeeping and Reporting

364 – Waste Transporters – General

Applicability:

- Raw sewage, Septage, and Sludges
- Industrial-commercial waste
- Waste tires
- Waste oil
- Regulated medical waste (RMW)
- Household hazardous waste (HHW)
- Infectious waste
- Hazardous waste

364 – Waste Transporters

Exemptions include:

- Transportation by rail, water or air
- Residential & industrial waste (exclusions apply)
- **HHW (source-separated & self transported to authorized event/facility)**
- Non-hazardous bottom & fly ash
- Public utility, railroad and **transportation agency wastes (conditions apply)**
- RMW <50 lbs/shipment (criteria apply)
- Waste transported by farm vehicles
- **C&D debris <10 cubic yards/shipment**
- Regulated waste **≤2,000 lbs/shipment** (exclusions apply)
- Uncontaminated drill cuttings
- Approved BUD materials
- Ag waste

364 – Waste Transporters

Registration

- Required for transportation of:
 - RMW <50 lbs/month (must meet specific criteria)
 - HHW ≤50 lbs/shipment (source-separated)
 - Sharps from a household medical waste sharps collection facility
 - Commercial solid waste, other than C&D debris, >2,000 lbs/shipment
 - C&D debris (includes all fill categories) >10 cubic yards/shipment

Permits

- Required for everything else

364 – Waste Transporters

Reporting & Recordkeeping

- Waste tracking documents required for:
 - Statewide: RMW; restricted-use, limited-use & contaminated fill; and non-exempt drilling & production waste
 - New York City: Statewide plus C&D debris including general fill
- Annual reports due annually by March 1

Part 365

Regulated Medical Waste Facilities and Other Infectious Waste

Part 365 – Regulated Medical Waste and Other Infectious Wastes

Subpart 365-1 RMW Generators

Subpart 365-2 RMW Treatment, Storage, and Transfer Facilities

Subpart 365-3 Other Infectious Wastes

- Addresses incidental infectious waste that is not RMW (e.g., Ebola, anthrax incidents)

Part 366

Local Solid Waste Management Planning

Part 360 Transition Requirements – LSWMPs

- LSWMPs approved prior to November 4, 2017 remain in effect for term of planning period in the approved LSWMP
- Draft LSWMPs submitted to the Department for review but not approved by November 4, 2017: the Department will perform a completeness review within 365 days

366 – Local Solid Waste Management Planning

- Description of the planning unit
- Waste generation and materials recovery data
- Description of the existing solid waste management system
- Description of existing administrative and financial structure
- Identification of alternatives for program enhancements considered
- Evaluation of the alternatives determined to be applicable
- Identification of the selected alternatives and programs
- Implementation plan and schedule – **10 years**
- Waste stream projections

366 – Local Solid Waste Management Planning

Public Participation Process

- Prior to submission - 45-day public comments period
- At least 1 public meeting during the public comment period
- Responsiveness summary must be prepared

LSWMP Approval Process

- Department review time frames added
 - 30 day completeness review
 - Upon completeness determination – 1 year to complete the process
 - 120 days – complete draft LSWMP review
 - 60 days – 2nd and subsequent submittals
 - Final LSWMP approved when all documents submitted

366 – Local Solid Waste Management Planning

Subsequent LSWMP

- 180 days prior to expiration, a new draft LSWMP must be submitted

Optional LSWMP Planning Period Extension

- Planning period can be extended two years as part of the biennial LSWMP update – maximum of 5 two-year extensions

Biennial LSWMP Update

- Department can Biennial update submitted no later than **May 1** every other year

LSWMP Withdrawal

- determine LSWMP is no longer in effect
- 30 days to appeal
- Right to a hearing

Part 369

State Assistance Projects

Part 369 – State Assistance Projects

Subpart 369-1 General Provisions

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

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

Subpart 369-4 Municipal **Household Hazardous Waste** Collection and Disposal Projects

Subpart 369-5 Targeted Priority Area Municipal Waste Reduction and Recycling Projects

Subpart 369-6 Nonhazardous Municipal Landfill Closure Projects

Subpart 369-7 Nonhazardous Municipal Landfill Gas Management Projects

369-2 – State Assistance Projects – Municipal Waste Reduction & Recycling and HHW **Capital Projects**

- Applications reviewed in the order received and placed on a waiting list if funding is not available
- **Costs must be incurred no more than 1 year before the application date**
- **Projects must be expected to last 10 years for vehicles and equipment and 30 years for structures**
- Projects do not include waste tires, waste oil or C&D debris
- **Project must be intended to serve a substantial portion of the population or handle a significant portion of the waste stream**
- **Project must be consistent with department-approved CRA or LSWMP**

369-3 – State Assistance Projects – Municipal Waste Reduction & Recycling Education, Promotion, Planning and Coordination Projects

- Only one application per calendar year for all eligible costs expected to be incurred
- Application must be postmarked during August, September and October for costs anticipated during the next calendar year
- Project must be consistent with department-approved CRA or LSWMP
- Project coordinators must be assigned to the project for no less than 50 percent of their full-time schedule for salary costs to be eligible

369-4 – State Assistance Projects – Municipal **HHW** Collection and Disposal Projects

- Only one application per calendar year for all eligible costs incurred during the previous calendar year can be submitted
- Applications must be postmarked during January and February of each calendar year for costs incurred during the previous calendar year
- Costs incurred for the collection and management of materials that have an established statewide take-back, product stewardship or return program are not eligible

Thank You

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