



## Part 360 Revisions - Comment Period Extended

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On March 16, 2016, the New York State Department of Environmental Conservation (DEC) released for public comment draft revisions to Part 360 Solid Waste Management Facilities (Part 360), an associated Draft Generic Environmental Impact Statement (DGEIS), and other supporting regulatory documents. DEC provided a 120-day comment period, which was to end on July 15, 2016. However, numerous stakeholders having noted the size and scope of the proposed revisions requested an extension to the comment period.

In recognition of the comprehensive nature of the proposed revisions and the significant number of requests for an extension, DEC added an additional 60 days to the comment period. The new deadline for written comments on the Part 360 express terms and DGEIS is September 13, 2016.

A component of this proposed rulemaking is to subdivide the existing solid waste management facility regulations and group together regulations applicable to facilities that are similar in nature, such as facilities that recycle and recover materials. Therefore, the content found in the current Part 360 is proposed to be distributed into seven different parts: Parts 360, 361, 362, 363, 365, 366 and 369. The proposed Part 360 series includes:

- Part 360 General Requirements
- Part 361 Material Recovery Facilities
- Part 362 Combustion, Thermal Treatment, Transfer, and Collection Facilities
- Part 363 Landfills

- Part 365 Biohazard Waste Management Facilities
- Part 366 Local Solid Waste Management Planning
- Part 369 State Assistance Projects

In addition to the solid waste management facilities and activities currently regulated under Part 360, this proposed rulemaking includes revisions



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to the regulations governing waste transportation (Part 364) and state assistance grants to municipalities related to solid waste management (Part 369).

Many new or expanded solid waste management facilities, particularly recycling facilities and landfills, have been constructed since the last comprehensive revisions in 1993, providing the Department with experience in applying those regulations.

This experience has demonstrated that many areas of the regulations would benefit from revision, clarification, or modification to allow for new, technically appropriate alternatives to the design and operation criteria for solid waste management facilities found in the existing regulations, and to streamline the regulatory process. The proposed revisions are also necessary to increase program efficiency and for the State to continue its leadership of solid waste management and waste reduction strategies.

The proposed revisions also address specific concerns related to mulch processing, construction and demolition debris management, and organic waste diversion, among other concerns. Highlights of the proposed regulations include:

### New Regulations for Mulch Processing Facilities

The mulch industry is important to the local economy and environment in communities across the state. However, the processing of wood debris into mulch is currently exempt from state regulation under Part 360. This practice has increasingly become an issue as the size of the facilities in some areas in the State has grown from an acre or two to dozens of acres, and piles of mulch have turned into mountains

of mulch. These larger facilities have caused problems resulting in odors, dust, runoff, and fires. The proposed regulations will provide enhanced safeguards and increase oversight of mulch and compost facilities by requiring these facilities to establish water runoff management plans to protect groundwater and placing restrictions on pile size and storage to reduce the risk of fires, odor, and dust.

### Improved Construction & Demolition Debris Management

Throughout the state, lack of proper disposal of construction and demolition debris has resulted in many illegal landfills and disposal sites, leading to significant contamination and other environmental threats. To enhance DEC's oversight and enforcement of this waste and to ensure it is properly disposed, the regulations propose to enhance existing tracking of this material by expanding C&D tracking to include material leaving both registered and permitted C&D processing facilities. These tracking form requirements are included in the proposed modifications to Part 364. In addition, facilities that receive less than 250 tons per day of only uncontaminated concrete, brick, rock and

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soils (CRBS), only asphalt, only asphalt roofing shingles or only uncontaminated gypsum wallboard will require a registration. A permit will be required for the receipt of 250 tons per day or greater of these materials.

The proposed regulations also establish acceptable pre-determined beneficial uses for C&D debris and C&D debris residues, which can be utilized without additional Department approval. For the first time, transport of commercially generated C&D in quantities greater than 10 cubic yards will require Part 364 registration. The registration requirements are minimal as compared to the permitting requirements and do not include a regulatory fee, unique insurance requirements and amounts or special vehicle identification requirements.

### **New Regulations for Historic Fill Management**

New provisions have been added to address the management of historic fill, including criteria for the on-site use, off-site use, and disposal of the waste. Historic fill consists of municipal solid waste incinerator ash, coal ash, wood ash, and other wastes that were used to create usable land by

filling water bodies, wetlands, and topographical depressions. These materials were not previously identified or separately managed under Part 360, and improper handling and disposal have become problematic. The proposed regulations will provide necessary control on their handling and disposal. Registration under Part 364 will be required for the transport of historic fill in quantities greater than 10 cubic yards.

### **Installation of Radiation Detectors**

To prevent the improper disposal of radioactive waste, DEC proposes to require fixed radiation detectors at facilities that handle municipal solid waste (MSW) including landfills, combustion facilities, MSW composting facilities, processing facilities and transfer stations that send waste out-of-state. Additionally, the regulations propose new operating requirements including daily background radiation readings, weekly field checks, annual detector calibration, staff training, and increased documentation to ensure that no radioactive materials are being disposed of illegally.

### **Developing Beneficial Uses for Oil and Gas Brine**

To provide clarification on the appropriate use of brine, or highly concentrated salt water from oil and gas extraction, the regulations provide specific application criteria and the maximum pollutant limits for road application. Brine is used to suppress dust on unpaved roads and to melt snow and ice on paved roads. While not allowed now, the proposed regulations specifically prohibit the use of high-volume fracturing brine from use in New York State.

The full text of the proposed rule and supporting documents can be found at: <http://www.dec.ny.gov/regulations/81768.html>. Comments can be sent to:

[SolidWasteRegulations@dec.ny.gov](mailto:SolidWasteRegulations@dec.ny.gov) or by mail to

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