



**Department of
Environmental
Conservation**

Comprehensive Revisions to 6NYCRR Part 360 Solid Waste Management Facilities Regulations – Select Comment Overview

New York State Association for Solid Waste Management
Fall Conference
October 3, 2016

Timeline 2016

- Draft regulations posted on DEC website on February 26
- State Register and ENB publication on March 16
- Public information and targeted stakeholder workshops in April and May
- Public hearings in June (Long Island 6/2, Albany 6/6, Rochester 6/7, New York City 6/9)
- Public comment period ended September 13



Outreach Meetings During Comment Period

US Army Corps of Eng.

NYSASWM

NYC DEP

NYC DOS

Long Island Builders Inst.

Riverkeeper

Delaware County

Assoc. Contractors of NY

Citizens Campaign for the Environment

Assoc. of Medical Device Reprocessors

NY Construction Materials Assoc.

Environmental Advocates of NY

American Petroleum Inst.

Earth Works

Sierra Club



Public Comments Received

- Detailed written comments received from approximately 230 entities
 - Comments range from 1 page to 70 pages
- 4200 letters and emails received by mail (primarily about hydrofracking/road application of oil & gas brine)
- 60 letters regarding use of waste tires in agricultural applications
- 100's of letters on landfill issues including landfill final slope thresholds, and acceptance of ash and mining waste



Next Steps

- Sorting, summary and response to comments
- Revise express terms and supporting documents accordingly
- Expected promulgation date of rule: September 2017
 - anticipated to be accomplished through revised rulemaking and additional comment period



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



Comments Received on Part 360

- Definitions: revisions of existing proposed and new proposed
- Transition requirements need to be refined
 - Suggested that 180 day time frame for submission of a complete application is unrealistic.
- Clarification needed for submission requirements and use of P.E.s
- Clarification of LSWMP “consistency” for application submitted by or on behalf of a private facility



Part 360 Comments - Permit Application Req.

- Request to reconsider requirement of 360.19(c)(2) “facility may not accept waste that is generated within a municipality that is not included in a department approved CRA or LSWMP”

Part 360 Comments on Noise

- Requirement for noise in 360 is redundant because it is already assessed during SEQR
- Require submission of a noise assessment to demonstrate compliance with the sound level requirements
- Require submission of a noise monitoring plan, if noise assessment determines noise levels cannot be met



Part 360 Comments - BUDs

- Proposed BUD provisions appear more restrictive than the current regulations
- 5 yr. expiration date on BUDs too restrictive
- Pre-BUD for use of tires on farms to secure tarps too restrictive
- Pre-BUD for concrete, asphalt millings, etc. should be in 360 (BUDs) rather than 361 (CDDPF)

Part 360 Comments - BUDs

- BUD's should not be granted for use of production brine from oil and gas wells, for de-icing or dust control on roads
- Navigational Dredge BUDs
 - Sampling requirements for BUDs are not consistent with Division of Water TOGS 5.1.9
 - NYS BUD procedure conflicts with the way projects are contracted and bid in the New York Harbor and should be reconsidered



Part 360 Comments - Historic Fill

- Clarify the definition of historic fill or reconsider use of that term
- Expand section to include soil and soil-like waste that do not meet the exclusion criteria included in the definition of solid waste
- Clarify uses and circumstances in which soils can be reused in off-site projects



Comments on Radiation Detectors

- Concern for cost of purchase and operation
- Specifications for fixed radiation detection units should be provided in regulation
- Limit for radium-226 is too high
- All trigger events should be reported to the Department



Comments on Part 360 - Financial Assurance

- Clarification needed regarding custodial care in the financial assurance estimates
- Contingency factor (15%) for total cost estimate should be removed
- Leachate generation reduction should be considered for post-closure cost estimates
- Define 30-yr “rolling” terminology for post closure period
- Objections to requirement for private facilities to establish a trust fund for post closure and custodial care



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 Wood Debris and Yard Trimmings Processing Facilities

Subpart 361-5 Construction and Demolition Debris Processing 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



Part 361 Material Recovery Facilities - Comments

- Potential environmental and health concerns from the land application of biosolids
- Overly restrictive pile size and spacing restrictions for mulch producers
- Mulch piles too close to neighbors
- 1% limit on non-organic material received at composting facilities is difficult to monitor and comply with



Part 361 Material Recovery Facilities - Comments

- SEQR implications of requiring permits at existing RHRFs and CDDPFs above 250 tons/day
- Reconsider registration requirements for certain CDDPFs
- Requirement for certain CDDPF operations within an enclosed building should be case-by-case
- Storage time and volume limits for processed and unprocessed C&D debris should be lengthened
- Reconsider tracking documents for recyclables leaving CDDPFs



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



Part 362 Transfer Facility Comments

- Provisions for vehicle to vehicle transfer should allow flexibility for placement of containers on the ground in the event of vehicle repair
- Storage limit for non-putrescible recyclables should be expanded from 90 days
- Clarification needed for restriction on receipt of source-separated recyclables for combustion or disposal

Part 362 Transfer Facility Comments

- Extend requirement to remove putrescibles from transfer facility beyond 3 days
- Rail transport of MSW and C&D debris should be in sealed containers



Part 363 Landfill Comments

- Alternate operating cover- 20% limit is too low
- Restriction on fines content will limit the use of contaminated soil as AOC
- Concerns with respect to feasibility of implementation and cost impact:
 - factor of safety requirement of 10 for geocomposite hydraulic flow calculations too conservative
 - video inspection required for primary LCRS
 - electrical resistivity testing of secondary liners
 - soil drainage requirement of having no more than 15% calcium carbonate equivalent



Part 363 Landfill Comments

- Gas venting layer should be optional
- Slope requirements inconsistent in double composite liner system
- Quarterly monitoring for baseline parameters in secondary leachate collection system costly and not necessary



Part 363 Landfill Comments

- Requirement for active gas collection system disallow recouping revenue from selling of carbon credits
- Requirements for non-friable asbestos-containing waste disposal are too restrictive, it should be regulated as C&D debris without limitation
- Requirement for deed description to be submitted within one year of permit too restrictive



Part 363 Landfill Comments

- Facility manual components are cumbersome
 - hydrogeological investigation, including EMP, site investigation plan, and SAP should not be part of the facility manual



Part 364 Waste Transporter Comments

- Clarification needed regarding MSW and C&D debris mixed in single loads
- Add definition of industrial-commercial waste
- Loads of C&D debris less than 2000 lbs. should be exempt from Part 364 requirements
- Waste tracking documents for C&D debris should only be required from the point of generation to the first receiving facility
- No need for tracking documents for C&D debris



Part 364 Waste Transporter Comments

- Industry should be able to review the draft tracking form prior to final promulgation of regulations
- Concern that that transporter tracking will only be captured for “good” actors and that “bad” actors will continue illegal dumping
- Ash residue, C&D debris, and commercial waste should not be treated as regulated waste, especially for municipalities



Part 365 Biohazard Waste Comments

- Food processors – handling food lab waste as RMW
- One day sharps collection – onerous criteria
- Regulation of companies that clean medical devices for reuse
- Storage time limits for bulk storage at hospitals
- Storage time for sharps at small generators
- Concern about the universe covered by 365



Part 366 Solid Waste Planning Comments

- Draft Part 366 represents a departure from the intent of the requirements set forth in the SWMA of 1988
- Suggested revisions have been provided by NYSASWM and will be evaluated
- Role of department and local planning units needs to be revised
- More DEC assistance needed in implementing LSWMPs for planning units after approval



Part 366 Solid Waste Planning Comments

Department should:

- Establish basic waste composition templates for urban, suburban, rural areas which could be supplemented by local conditions
- Establish a system of electronic filing and collation of disposal data from both public and private reporting entities
- Update and further develop a generic technology assessment for use by planning units
- Develop a market assistance resource for recyclables
- Provide a mechanism which would allow a planning unit to extend the term of a planning period for a “rolling 10 year term” as long as appropriate public comment occurs



Part 366 Solid Waste Planning Comments

- Department review time for LSWMPs should be shorter
- Reference to “progressively increasing recovery of recyclables” in planning projection language should be removed
- Biennial update of LSWMPs is excessive and review is overly burdensome for the Department



Part 369 State Assistance Projects Comments

- Equipment and process upgrades that incorporate new technology should not be ineligible for grant funding if the existing equipment is older than 10 years
- Remove stipulation that public outreach spending must equal the educator/coordinator's salary for eligible reimbursement
- References to “up to” 50% reimbursement is concerning- many communities rely on the 50% grant funding to support programs



Thank You