



Department of
Environmental
Conservation

Revised Part 360 Series Solid Waste Management Facility Regulations: A Summary With Focus on Fill and Dredged Material

New Jersey Society of Women
Environmental Professionals
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Background

- First major revision in nearly 25 years
- The Part 360 series rulemaking process formally began in February 2016
- The Regulations were published in the State Register and ENB and posted on DEC website on 9/20/17
- **Regulations became effective on November 4, 2017**

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 General Requirements

- Section 360.2 Definitions
- Section 360.4 Transition
- Section 360.12 Beneficial Use
- Section 360.13 Special Requirements for Beneficial Use of Fill Material
- Section 360.14 Exempt Facilities



Section 360.2

Definitions

Many New Definitions Relevant to Fill and Dredged Material

Amendment (NDM)

Commercial aggregate

C&D Debris

Demolition Wastes

Fill Material

General Fill

Inert Material (LI Landfill Law)

Land With A High/ Low Potential for
Public Exposure

Lift (fill placement)

Limited-Use Fill

Navigational Dredged Material

Processing (Solid Waste)

Pulverized

Putrescible

Qualified Environmental Professional

Recognizable

Residue

Restricted-Use Fill

Soil

Uncontaminated

Undeveloped Land



Definition: Fill Material

360.2(b)(107): “***Fill Material*** means soil and similar material excavated for the purpose of construction or maintenance, but does not include overburden generated from mining operations...”

- Fill Material includes “historic fill”
- No definition of historic fill is included in the final Part 360

Section 360.4

Transition

Part 360 Transition Requirements - BUDs

- Pre-determined BUDs that are no longer included in section 360.12 are no longer in effect 180 days after November 4 2017, but may be eligible for a case-specific BUD
- All BUDs in effect prior to November 4, 2017 are subject to the reporting requirements of Part 360
- All BUDs in effect prior to November 4, 2017 that do not contain a specific expiration date will expire in 180 days unless a renewal request is submitted within 180 days

Section 360.12

Beneficial Use

360.12 – Beneficial Use

Subdivisions:

- (a) Applicability
- (b) Unacceptable Uses
- (c) Pre-determined Beneficial Uses
- (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(a) – Applicability

- Beneficial use = wastes as effective substitutes for commercial products or raw materials, as determined by the Department
- 360.12 does not apply to materials being sent to Part 361(Material Recovery) Facilities
- 360.12 does not apply to waste used in a manner that constitutes disposal
- The Department reserves the right to **require a permit** for land placement to protect public health or the environment
- **Default storage time limit of 365 days** for beneficially-used materials without specific approval

360.12 – Pre-Determined Beneficial Uses

- Sandy navigational dredged material as commercial aggregate
- Concrete, brick and rock as aggregate
- Asphalt pavement and millings in pavement and road construction
- Fill Material generated outside of NYC with no history/suspect contamination (no sampling required; unrestricted use)
- **Fill Material used in accordance with 360.13**
- REMOVED: “landfill- alternate daily cover BUD” – this now covered under Part 363 Landfills

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

- Case-by-case review for any byproduct or waste material
- 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

360.12(e) – Case-Specific Beneficial Use Determinations – Navigational Dredged Material (NDM)

- Modified petition contents for NDM
- Minimum sampling requirements for NDM – sampling performed with approval of the Department’s Division of Water or the US Army Corps of Engineers can be substituted
- See also 361-9: Navigational Dredged Material Handling and Recovery Facilities



Section 360.13

Special Requirements for Pre-Determined Beneficial Use of Fill Material

360.13 – Special Requirements for Pre-Determined Beneficial Use of Fill Material

Subdivisions:

- Applicability
- Waste cessation
- Exemption for on-site reuse of fill material
- Testing requirements for fill material
- Sampling and analysis requirements for fill material
- Acceptable fill material uses
- Other fill material use criteria

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 apply to:

- Fill material sent to CDDHRFs (361-5)
- Fill material generated outside of NYC with no evidence of historical impacts such as reported spill events, or visual or other indication of chemical or physical contamination – ***no use restriction***

360.13(a) – Applicability (continued)

Section 360.13 DOES NOT:

- Require all excavated soil or fill to be sampled
- Require sampling of material sent to CDDHRFs
- Apply to fill material generated outside of NYC with no evidence of chemical or physical contamination
- Prevent anyone from petitioning for a case-specific BUD pursuant to 360.12(d) for fill material

360.13(b) – Waste Cessation

Fill Material ceases to be solid waste:

- General fill generated outside of NYC:
 - Once determined to be general fill by knowledge or (if necessary) sampling and analysis
- General fill generated within NYC:
 - Once delivered to the site of reuse
- Restricted-use and Limited-use fill anywhere in NYS:
 - Once delivered to the site of reuse



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(d) – Testing requirements for Fill Material

- All fill material generated **in NYC** unless:
 - The quantity is less than 10 cubic yards from one site,
and
 - Does not contain historical evidence of impacts from contamination
- Any fill material **outside of NYC** that:
 - Exhibits visual or historical evidence of contamination
 - Originates from a site subject to industrial land use
 - If signs of contamination are discovered during excavation

360.13(e) – Sampling and Analysis Requirements for Fill Material

- Sampling by qualified environmental professional
- Minimum soil sampling frequency
- Analysis parameters: SVOCs, pesticides, PCBs, metals
- VOCs and asbestos contingent on likelihood of presence
- Percentage of non-soil constituents (“physical contaminants”) should be estimated based on visual observation

360.13(f) - Acceptable Fill Material Uses

Three categories of fill material:

General Fill, Restricted-Use Fill, and Limited-Use Fill

- General Fill can be used in the same manner as Limited-Use Fill and Restricted-Use Fill
- Restricted-Use Fill can be used in the same manner as Limited Use Fill
- Due to the Long Island Landfill Law, **in Nassau and Suffolk Counties Restricted-Use Fill criteria must meet stricter criteria, and Limited-Use Fill is prohibited**



360.13(f) – Acceptable Fill Material Uses

Fill Material Type	Fill Material End Use	Physical Criteria	Maximum Concentration Levels
General Fill	Any setting where the fill material meets the engineering criteria, for use, except: <ol style="list-style-type: none"> 1. Undeveloped land; and 2. Agricultural crop land (<i>OK for residential or community gardening!</i>) 	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>	<p>Up to 40 percent by volume inert, non-putrescible non-soil constituents.</p>	<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.

360.13(f) – Acceptable Fill Material Uses

- Use of Restricted-use or Limited-use fill material can only occur at a project in accordance with an **approved local building permit or other municipal authorization** that includes the need for the fill material
- Inert, non-putrescible **excludes** plastic, gypsum wallboard, wood, paper, or other material that may readily degrade or produce odors
- Use of Restricted-use or Limited-use fill material must take place **within 30 days of delivery to site**. Foundation or pavement must be installed **within 365 days of material placement**.

360.13(g) – Other Fill Material Use Criteria

- No payment for receiving Restricted-use or Limited-use fill material
- Notification to DEC at least 5 days in advance of movement for **any** fill material generated in, transferred in, or imported to NYC in quantities greater than 10 CY
- Notification to DEC at least 5 days in advance, statewide, of placement of Restricted-use and Limited-use fill material
- Transport must be in accordance with Part 364 requirements

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
 - Several types of waste are excluded (e.g., impoundments for coal ash at a power generation facility) but **not** fill material, NDM, or most potential BUD materials for construction

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 361-5

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, Gravel, and/or Rock
- Restricted-Use Soil/Limited-Use Soil (cannot be combined with Uncontaminated Soil/Gravel/Rock)
- Case-Specific BUD material derived from C&D Debris
- Combination of materials above, except as noted



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

Operating Requirements:

- BUD material can be stored without time restriction so long as storage volumes are not exceeded
- 10 foot separation between storage piles (except concrete, asphalt, brick, rock) unless separated by bins or other structures

361-5 – C&D Debris Handling and Recovery Facilities (continued)

Operating Requirements:

- Transportation from Registered and Permitted Facility requires Tracking Form - Fill material & non-BUD material
- **Sampling of all residue and fill material** is required every 1000 cubic yards
- Outgoing, sampled residue and fill material can be determined General Fill, Restricted-Use Fill, or Limited-Use Fill for sale or distribution by CDDHRF



Subpart 361-9

Navigational Dredge Material Handling and Recovery Facilities

361-9 – Navigational Dredge Material Handling and Recovery Facility

Registered Facilities:

- Facility receiving NDM for dewatering or amending with Portland cement
- Storage not to exceed 365 days
- Financial Assurance

Part 364

Waste Transporters

364: Waste Transporters

Exempt

- Less than 10 cubic yards C&D debris, including Fill Material, per shipment (except NYC)
- Rail, water or air carriers
- Material with a case-specific BUD designating a point of waste cessation before shipment

Registration Required

- Greater than 2000 pounds C&D debris or Fill Material of any type in NYC
- Restricted-Use or Limited-Use Fill anywhere in the State

364 – Waste Transporters

- **Waste tracking documents** required for:
 - Restricted-use, limited-use and contaminated fill (Statewide)
 - C&D debris including general fill generated in New York City
- **Annual Reporting** for all registered transporters

Thank You

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