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- Pre-determined BUDs that are no longer included in section 360.12 are no longer in effect 180 days after November 4, 2017, but may be eligible for a case-specific BUD.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**
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

<table>
<thead>
<tr>
<th>Fill Material Type</th>
<th>Fill Material End Use</th>
<th>Physical Criteria</th>
<th>Maximum Concentration Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fill</td>
<td>Any setting where the fill material meets the engineering criteria, for use, except:</td>
<td>Only soil, sand, gravel or rock; no non-soil constituents.</td>
<td>Lower of Protection of Public Health-Residential Land Use and Protection of Groundwater in</td>
</tr>
<tr>
<td></td>
<td>1. Undeveloped land; and</td>
<td></td>
<td>Table 375-6.8(b) of this Title.</td>
</tr>
<tr>
<td></td>
<td>2. Agricultural crop land (<em>OK for residential or community gardening!</em>)</td>
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<td>Restricted-Use Fill</td>
<td>For embankments or subgrade in transportation corridors, or on sites where in-situ materials exceed Restricted-Use Fill or Limited-Use Fill criteria. Must be placed above the seasonal high water table.</td>
<td>Up to 40 percent by volume inert, non-putrescible non-soil constituents.</td>
<td>General Fill criteria except that up to 3 mg/kg total benzo (a)pyrene (BAP) equivalent. No detectable asbestos.</td>
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## 360.13(f) – Acceptable Fill Material Uses

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<td>Limited-Use Fill</td>
<td>Under foundations and pavements above the seasonal high water table</td>
<td>No volume limit for inert, non-putrescible non-soil constituents.</td>
<td>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.</td>
</tr>
</tbody>
</table>
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
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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