



Department of
Environmental
Conservation

Revised Part 360 Series Beneficial use Regulations

CCLR Driving Revitalization Workshop
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Section 360.12

Beneficial Use

Part 360 – Beneficial Use Program

Beneficial Use Determinations (BUDs)

A Beneficial Use Determination (BUD) is a designation made by the Department, pursuant to 6 NYCRR Part 360.12, whether Parts 360 Series Regulations have jurisdiction over waste material which is to be beneficially used. Once the Department grants a BUD, the waste material ceases to be considered a solid waste for the purposes of Part 360 Series when used as described in the BUD.



Part 360 – BUD Program Structure

- **Pre-determined BUDs**
 - Established in regulation
 - No additional approval from DEC
 - Report to DEC if >10,000 tons distributed

- **Case-specific BUDs**
 - Decision based on petition submitted to DEC
 - Effective substitute for raw material or product
 - Use does not constitute disposal

360.12(c) – Pre-Determined Beneficial Uses

- (1)(ii) **fill material** generated outside of New York City with no evidence of historical impacts such as reported spill events, or visual or other indication (odors, etc.) of chemical or physical contamination; (“unrestricted fill”)
- (3)(viii) recycled aggregate or residue which meets a municipal or State specification or standard for use as commercial aggregate if generated from uncontaminated, recognizable **concrete and other masonry products, brick, or rock...**;
- (3)(ix) recycled material or residue generated from uncontaminated **asphalt pavement and asphalt millings** which meets a municipal or State specification or standard for use as an ingredient in asphalt pavement or other paved surface construction and maintenance uses ...
- (3)(x) **asphalt pavement and asphalt millings** received at an asphalt manufacturing plant for incorporation into an asphalt product;

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),(g) – Acceptable Fill Material Uses

- General Fill – can be used anywhere except agricultural crop land or undeveloped land
 - Lower of 6 NYCRR 375-6.8(b) Residential Land Use and Protection of Groundwater SCOs
- Restricted-Use Fill – embankments, transportation corridors
 - Region 1: Same as General Fill Limit; PAHs may not exceed Protection of Groundwater SCO
- Limited-Use Fill – under foundations and pavement
 - Prohibited from reuse in Region 1
- Limited-use fill and Restricted-use fill generated outside Nassau or Suffolk County prohibited from being imported for reuse to any destination within Nassau or Suffolk County.

Part 364

Waste Transporters



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 $\leq 2,000$ lbs/shipment (exclusions apply)
- Uncontaminated drill cuttings
- Approved BUD materials
- Ag waste



364 – Waste Transporters

Registration

- Required for transportation of:
 - C&D debris (includes all fill categories) >10 cubic yards/shipment
 - 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

Permits

- Required for all other Part 364 regulated wastes



364 – Waste Transporters

Reporting & Recordkeeping

- Waste tracking documents required for:
 - Restricted-use, limited-use & contaminated fill (Statewide)
 - C&D debris including general fill generated in New York City
 - RMW (Statewide)
 - Non-exempt drilling & production waste (Statewide)
- Annual reports due annually by March 1



Potential Changes to Part 360



Potential Revisions under consideration – Fill Material/C&D Specific

- 360.2

Remove the default 365 day limit on storage for pre-determined BUD material

Add definition for ‘contaminated fill’ based on language in Clarifications

Add definition for ‘unrestricted fill’ to describe pre-determined BUD in 360.12(c)(1)(ii): *Unrestricted fill* means fill material consisting of soil, sand, gravel, or rock generated outside of New York City with no evidence of historical impacts such as reported spill events, or visual or other indication (odors, etc.) of chemical or physical contamination

Potential Revisions under consideration – Fill Material/C&D Specific

- 360.12

New pre-determined BUD: Combination of bricks, concrete and asphalt pavement used in or under asphalt pavement or other paved surface.

360.12(c)(3)(viii) Remove “municipal or state specification or standard” requirement for reuse of concrete, brick, or rock as commercial aggregate.



Potential Revisions under consideration – Fill Material/C&D Specific

- 360.13

Change restriction on reuse of General Fill to only “agricultural land used for raising livestock or producing animal products for human consumption”

360.13(d) Remove automatic trigger for testing of fill material originating at industrial land use sites



Comments or Questions?

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