

## **C&D Debris Handling and Recovery Facilities**

- The February 12, 2021 Enforcement Discretion Letter extended the transition dates set forth in Section 360.4(b)(2), (b)(3) and (f) for facilities subject to 361-5 until May 3, 2022. Facilities that existed prior to November 4, 2017 and that would be required to obtain a Subpart 361-5 registration or permit under Subpart 361-5 will continue to operate pursuant to the facility's existing registration or permit and associated regulations until May 3, 2022, or an amendment to the November 4, 2017 rule is promulgated, whichever is earlier.
- Construction and Demolition Debris Handling and Recovery Facilities (CDDHRF) are authorized as registered facilities or permitted facilities. Under Subpart Part 361-5, mixed loads of C&D debris may be processed (i.e., stored, separated, sorted, etc.) at a permitted CDDHRF while source-separated loads of C&D debris may be processed at a registered CDDHRF as allowed under specific registrations as identified in 6 NYCRR Section 361-5.2(a). However, the February 12, 2021 Enforcement Discretion Letter allows registered CDDHRFs that were issued their registration prior to November 4, 2017 to accept mixed loads of asphalt, asphalt millings, concrete, concrete products (including those that have embedded reinforcement), masonry products, brick, rock, and soil at their facility, provided the facility's registration allows for the processing of each material in the mixed load. De minimis amounts of wood that are present in these materials do not cause the material to be considered an unauthorized mixed load, or to be considered unrecognizable or contaminated.
- The February 12, 2021 Enforcement Discretion Letter states in part that "...Section 361-5.4(e)... requires that facilities perform certain sampling on any fill material or residue leaving the facility for reuse. The Department will utilize its enforcement discretion with respect to this provision to delay the enforcement of this sampling requirement regardless of the timing of the registration or permit issuance to the facility." The implication of this decision is that fill material which moves through CDDHRFs does not require analytical sampling by any party prior to reuse under Section 360.13 until May 3, 2022 or until new regulations are promulgated. However, remaining requirements of Section 360.13, other than analytical requirements, continue to be applicable.