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NY-CRR
OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CHAPTER IV. QUALITY SERVICES
SUBCHAPTER B. SOLID WASTES
PART 361. MATERIAL RECOVERY FACILITIES

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(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, art. 17, titles 3, 5, 7, 8, §§ 19-0301, 19-0303, 19-0306, art. 27, titles 1, 7, 19, 23, 25, art. 70, title 1, art. 71, titles 27, 35, 40)

6 CRR-NY 361-1.1

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361-1.1 Applicability.

(a) This Subpart applies to facilities that process source-separated nonputrescible recyclables. The requirements contained in Part 360 of this Title also apply to this Subpart.

(b) This Subpart does not apply to:

(1) a facility that receives organic waste, which is regulated under Subpart 361-2, 361-3, or 361-4 of this Part;

(2) a facility that receives construction and demolition debris for recovery, which is regulated under Subpart 361-5 of this Part;

(3) a facility that receives only motor vehicles or portions of motor vehicles, which is regulated under Subpart 361-7 of this Part;

(4) a facility that receives waste tires, which is regulated under Subpart 361-6 of this Part or 362-1 of this Title;

(5) a facility that receives electronic waste for recovery and recycling as authorized by department registration or permit issued pursuant to Part 360 of this Title;

(6) a facility that receives municipal solid waste for post-collection separation of recyclables. That type of facility, or a portion thereof, is regulated under Subpart 362-2 of this Title; and

(7) a facility that operates pursuant to the Universal Waste Rule in Subpart 374-3 of this Title;

(8) a facility that is a redemption center regulated under Part 367 of this Title and article 27, title 10 of the Environmental Conservation Law (ECL), which limits its activities to the collection, sorting, and packaging of empty beverage containers from redeemers, in bags and boxes for return to the deposit initiator or agent of the deposit initiator, without further processing, except through a reverse vending machine after the deposit initiator has authorized, in writing, such processing through the reverse vending machine at the redemption center's facility.

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6 CRR-NY 361-1.2

6 CRR-NY 361-1.2

361-1.2 Exempt facilities.

In addition to the exemptions provided for in section 360.14 of this Part, the following facilities are exempt from this Subpart:

(a) Take back sites, which for purposes of this Subpart, means sites at a retailer or wholesaler that are used for collection of recyclables similar in nature to those sold or distributed by the retailer or wholesaler, if the materials are collected for the purpose of recycling or reuse.

(b) Sites operated by government or not for profit organizations that take back consumer goods for reuse or secondary marketing.

6 CRR-NY 361-1.2

6 CRR-NY 361-1.3

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361-1.3 Registered facilities.

(a) Unless otherwise exempt or required to obtain a permit pursuant to this Part, the following facilities must register with the department as specified in this Subpart, and are subject to section 360.15 of this Title. Each facility must comply with the criteria outlined in Part 360 of this Title and the recordkeeping and reporting requirements in section 361-1.6 of this Subpart.

(1) Recyclables handling and recovery facilities that accept no more than 5 tons per day of source-separated, nonputrescible recyclables based on a weekly average and have residue below 15 percent of their intake based on a full year of operation.

(2) Recyclables handling and recovery facilities that accept more than 5 tons per day, but less than 250 tons per day of source-separated, nonputrescible recyclables based on a weekly average and have residue below 15 percent of their intake based on a full year of operation.

(b) Each facility subject to this section must comply with the operating requirements specified in section 361-1.5 of this Subpart, except that recyclables handling and recovery facilities that meet paragraph (a)(1) of this section are not required to comply with section 361-1.5(g) of this Subpart.

(c) Each facility subject to this section must comply with the recordkeeping and reporting requirements in section 361-1.6 of this Subpart.

6 CRR-NY 361-1.3

6 CRR-NY 361-1.4

6 CRR-NY 361-1.4

361-1.4 Permit application requirements.

A recyclables handling and recovery facility that is not an exempt facility or subject to the registration provisions of section 361-1.3 of this Subpart must obtain a permit from the department, and must submit an application which includes the information required in section 360.16 of this Title and must include a description of how the facility will comply with the operating requirements in Part 360 of this Title and section 361-1.5 of this Subpart.

6 CRR-NY 361-1.4

6 CRR-NY 361-1.5

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361-1.5 Operating requirements.

A recyclables handling and recovery facility required to obtain a registration or a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria:

(a) A recyclables handling and recovery facility can receive only source-separated, nonputrescible recyclables for further processing.

(b) Residues and processed recyclables must be stored separately. Recyclables must be maintained in a manner that ensures marketability is not adversely affected. Source-separated or processed and separated material that meets a beneficial use determination as specified in section 360.12 of this Title can be stored without time restriction so long as the storage volume conforms with the declared storage volume identified in the application or registration documents.

(c) Unprocessed and processed recyclables that are intended to be recovered can be stored for a maximum of 180 calendar days, unless the following criteria are satisfied to justify a longer storage period:

(1) there is a demonstrated need to store for a longer period, such as a market agreement with terms of receipt based on greater than 180-day intervals or volumes that may take longer than 180 days to acquire;

(2) the facility has sufficient storage area to prevent a negative impact to public health or the environment; and

(3) the facility implements an inventory control system, including daily logs, to ensure that the processed recyclables do not remain at the facility for longer than the period approved;

(4) prior to storing unprocessed and processed recyclables for longer than 180 calendar days, the facility must notify the department of its intent and include justification based on the requirements of this subdivision.

(d) Unprocessed recyclables that the facility does not intend to recover and that do not contain putrescible waste can be stored for a period not to exceed 14 calendar days.

(e) Incidental putrescible waste received or putrescible residues can be stored for a period not to exceed seven calendar days after receipt or generation.

(f) Refrigerants contained in materials being handled must be properly removed and managed prior to compaction, crushing or shredding.

(g) All recyclables and waste delivered to or leaving the facility must be weighed and recorded.

6 CRR-NY 361-1.5

6 CRR-NY 361-1.6

6 CRR-NY 361-1.6

361-1.6 Recordkeeping and reporting requirements.

Facilities registered and permitted pursuant to this Part must:

(a) Keep records as required by section 360.19(k) of this Title.

(b) Submit an annual report as required by section 360.19(k)(3) of this Title.

6 CRR-NY 361-1.6

6 CRR-NY IV B 361 361-2 Notes

NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER IV. QUALITY SERVICES

SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-2. LAND APPLICATION AND ASSOCIATED STORAGE FACILITIES

6 CRR-NY IV B 361 361-2 Notes

6 CRR-NY IV B 361 361-2 Notes

6 CRR-NY 361-2.1

6 CRR-NY 361-2.1

361-2.1 Applicability.

This Subpart applies to the application of septage, biosolids, food processing waste, and other organic waste onto or in the soil to improve soil quality and/or provide plant nutrients on agricultural soils. This Subpart also applies to the storage of these wastes before land application. The definitions and other criteria contained in Part 360 of this Title also apply to this Subpart.

6 CRR-NY 361-2.1

6 CRR-NY 361-2.2

6 CRR-NY 361-2.2

361-2.2 Exempt facilities.

In addition to the exemptions found in section 360.14 of this Title, the following facilities or activities are exempt from this Subpart, provided that odor migration is minimized and vectors are controlled:

(a) A land application or storage facility for animal manure and associated bedding material. For purposes of this exemption bedding material includes hay, straw, sawdust, wood shavings, shredded newsprint, sand, and materials approved pursuant to a case specific beneficial use determination under section 360.12 of this Title.

(b) A land application facility or storage facility for food processing wastes that are visually recognizable. The waste must be applied at or below agronomic rates. The storage is limited to 20 cubic yards at any one time.

(c) A land application facility for fish-related material generated from a New York State-owned or licensed fish hatchery. The waste must be applied at or below agronomic rates.

(d) A land application facility or manure storage facility located on a concentrated animal feeding operation (CAFO) or a non-CAFO farm with a comprehensive nutrient management plan (CNMP) and National Resource Conservation Service (NRCS) code NY313 compliant storage structure, for food processing waste or other organic waste. This subdivision does not apply to any waste that contains human fecal matter (sewage sludge, septage, etc.) or industrial waste other than food processing waste. The amount of non-manure waste placed in the storage facility must not exceed 50 percent of the total volume of waste placed in the storage facility on an annual basis.

(e) A land application facility, including associated storage at the facility, for leaves and/or grass, provided:

(1) physical contaminants (such as plastic bags and branches) are removed before application of the waste, and these contaminants are properly recycled or disposed;

(2) grass:

(i) is not shredded at the site of application;

(ii) is not stored at any one site for more than 3 calendar days or in an amount exceeding 30 cubic yards;

(iii) is incorporated below the soil surface on the day it is land applied;

(iv) is applied at a rate not to exceed 20 tons per acre or a depth of 1 inch annually, whichever is less, and does not exceed 40 tons per acre during any 3-year period; and

(3) leaves:

(i) are applied at a maximum depth of four inches;

(ii) are incorporated below the soil surface within seven days after application to the soil; and

(iii) must not be stored for more than 30 calendar days; and

(4) measures are taken to minimize the blowing of grass and leaves.

(f) Land application of a mixture of manure and food processing waste or food scraps from a storage facility, as outlined in section 361-2.3(a) of this Subpart.

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6 CRR-NY 361-2.3

6 CRR-NY 361-2.3

361-2.3 Registered facilities.

Unless otherwise exempt, the following facilities are subject to the registration provision of section 360.15 of this Title and must register with the department. Facilities registered under this section are not required to have a closure plan or to obtain financial assurance.

(a) The storage of more than 20 cubic yards for recognizable food processing waste, provided the storage facility was designed and built in accordance with section 361-2.7(c), (d), (g) and (j) of this Subpart or National Resource Conservation Service (NRCS) code NY313. The facility must meet the buffer areas specified in section 361-2.7(a) of this Subpart.

(b) A manure storage facility that also accepts uncontaminated food scraps or food processing wastes. No more than 10 percent of the total volume of waste entering the facility on an annual basis can consist of non-manure unless liner construction verification is provided. Up to 40 percent of the total volume of waste entering the facility on an annual basis can consist of non-manure, if the storage facility was designed and built in accordance with section 361-2.7 of this Subpart or NRCS code NY313. The land application of this mixture is exempt from this Subpart.

(c) A land application facility for unrecognizable food processing wastes or papermill residuals, provided the facility complies with the following conditions:

(1) the operating requirements of section 361-2.5(a) and (b) of this Subpart are met;

(2) a minimum of three representative analyses of the waste for total kjeldahl nitrogen, ammonia, nitrate, total phosphorus, total potassium, total solids, pH, calcium carbonate equivalence, percent organic matter (only for papermill residuals), and chlorides is submitted annually using methods acceptable to the department. Additional analyses may be required, as determined by the department;

(3) the volume of waste land-applied does not cause ponding, except for temporary conditions within 12 hours of application;

(4) the application rate of waste does not exceed the agronomic rate, a chloride loading of 170 pounds per acre per year, or results in an organic matter content above 8 percent in the plow layer, whichever is more restrictive;

(5) the waste is beneficial to the crop grown and does not contain any human sanitary waste (*e.g.*, domestic sewage, biosolids, septage) or it is demonstrated that pathogen content is below detectable levels in the waste;

(6) for papermill residuals, the residuals must be 20 percent solids or greater and the carbon to nitrogen ratio must be 25 to 1 or greater;

(7) the facility has an odor management plan in place prior to land application and implements the plan when needed; and

(8) land application in the New York City water supply watershed or in Nassau or Suffolk county must be addressed in a CNMP;

(9) the temporary field stacking of papermill residuals prior to land application is allowed, provided the following criteria are met:

(i) the storage period is a maximum of 30 days;

(ii) the residuals are stored on the field where they will be applied and the amount stored does not exceed the amount that will be land applied on the site;

(iii) the storage area complies with the site criteria outlined in section 360-2.5(b)(1), (2), (3), (6) and (10) of this Subpart;

(iv) the storage area must not be located on areas with a slope greater than three percent;

(v) the residuals must have sufficient solids content that they will retain their shape if stacked three feet high and must be formed so that precipitation is shed from the pile;

(vi) any run-off from the stockpile must be contained within the land application site; and

(vii) after removal of the residuals, the storage area must be reseeded.

(d) A land application facility for septage from a single hauler using not more than two vehicles at any one time for collection related to land application, or the residuals from a composting toilet, provided the land application facility complies with the following:

(1) the requirements of section 361-2.5(b) of this Subpart, except section 361-2.5(b)(4) and (6) of this Subpart;

(2) at least 15 acres are available for each vehicle, except for composting toilet residuals;

(3) vegetation is grown at the application site that is sufficient to use all the available nitrogen provided from septage application;

(4) the liquid septage application rate does not exceed 25,000 gallons per acre per year, or the rate determined by the following calculation, whichever is less. The application rate can be changed if the septage is altered (*e.g.*, dewatered) before application:

Application Rate (gallons/acre/year) = Crop nitrogen needs (pounds nitrogen/acre) x 385

(5) the application rate for the compostng toilet residuals does not exceed the agronomic rate;

(6) for pathogen reduction, the pH of the septage is raised to 12 or higher by alkali addition and remains at 12 or higher for 30 minutes or analyses demonstrate an equivalent or greater level of pathogen reduction has been achieved. In addition, the following restrictions must be followed:

(i) public access must be restricted during land application and for at least one year after land application by the posting of signs, or the use of fences, gates or other means of preventing access;

(ii) food crops with harvested parts that touch the soil and are totally above the land surface must not be grown for 14 months after land application. Food crops with harvested parts below the surface of the land must not be grown for 38 months after land application;

(iii) food crops grown above the soil with harvested parts that do not touch the soil, feed crops or fiber crops must not be grown for at least 30 days after land application;

(iv) animals must not be grazed on the land for at least 30 days after land application; and

(v) turf grown on land where waste has been applied must not be grown for one year after land application when the harvested turf will be placed on either land with a high potential for public exposure or a lawn; and

(7) the following records must be kept for at least five years after septage or residuals application to a location, must be available to the department on request, and must be provided to the department in the annual report required by section 360.20(l)(3) of this Title:

(i) the location of the land application site(s), including the street address;

(ii) the date of each application, the amount applied, and the acres used;

(iii) pH or other data to show compliance with pathogen and vector attraction reduction criteria;

(iv) the crop grown; and

(v) the following certification statement, signed by the person responsible for land application:

"I certify, under penalty of law, that the information that will be used to determine compliance with Subpart 361-2 of 6 NYCRR Part 361 has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that false statements made herein are punishable pursuant to section 210.45 of the penal law."

(e) A storage facility for septage from a single transporter using no more than two vehicles for collection or the residuals from a composting toilet, provided the following conditions are satisfied:

(1) the minimum horizontal separation distances from the perimeter of the storage facility must meet the requirements found in section 361-2.5(b)(1) of this Subpart, except that the minimum horizontal separation distance to a residence, place of business, or public contact area is 1,500 feet for surface impoundments;

(2) surface water must be directed away from the storage facility;

(3) surface impoundment and open tanks must be properly fenced and posted or otherwise constructed to prevent unauthorized access;

(4) the facility must be completely emptied, cleaned, and inspected at least once every 12 months, and the department must be notified at least one week before the cleaning operation. Tanks must be tested for tightness biennially, with results provided to the department upon request. Any damage or deterioration revealed by the inspections must be repaired before the facility again receives waste;

(5) surface impoundments must be constructed above the 100-year flood elevation, and must have a liner system that consists of either a minimum of 2 feet of compacted soil being able to pass through a 1 inch screen and having a maximum remolded coefficient of permeability of 1 x 10^{-7} centimeters per second, or a synthetic material approved by the department, and the bottom of the liner system must be at least five feet above both the seasonal high groundwater table and bedrock;

(6) a minimum of two feet of freeboard must be maintained for a surface impoundment;

(7) a surface impoundment must have a depth no greater than six feet; and

(8) storage facilities other than surface impoundments must be constructed of a material (*e.g.*, concrete, steel, or fiberglass) that prevents leakage. The storage facility must be designed to maintain a minimum of two feet of freeboard.

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6 CRR-NY 361-2.4

6 CRR-NY 361-2.4

361-2.4 Permit application requirements for land application facilities.

A land application facility that is not an exempt facility or subject to the registration provisions of section 361-2.3 of this Subpart must obtain a permit and must submit an application, which includes the requirements identified in this section and section 360.16 of this Title. The application must include:

(a) A soil survey map from the U.S. Department of Agriculture's Soil Conservation Service, with a key to the soil survey, indicating the location of land application. Location-specific soil investigation results must be provided, if deemed necessary by the department, based on soil and hydrogeologic conditions at the site.

(b) Information concerning the depth to bedrock and groundwater and the source of these data.

(c) A land application operation plan that includes:

(1) the amount of land that will be used and the crops to be grown;

(2) timing of planting and harvesting;

(3) timing and amount of waste delivery, application rate, and any supplemental waste or fertilizer that will be used (including manure);

(4) descriptions of field stockpile storage, if applicable;

(5) provisions for waste storage or disposal when land application is restricted (e.g., due to weather or other site conditions); and

(6) a description of how the design and operating requirements in section 360.19 of this Title and section 361-2.5 of this Subpart will be satisfied.

(d) Calculations showing the proposed daily and annual hydraulic loading, in gallons per acre.

(e) Biosolids land application. In addition to the requirements outlined in subdivisions 361-2.4(a) through (d) of this section, an application for a permit for a land application facility involving biosolids must contain the following information:

(1) A description of the biosolids including:

(i) a description of each source including the name of the wastewater treatment plant, annual biosolids production, the amount of biosolids to be land applied and a description of the Federal or State pretreatment program, where applicable. Wastewater and partially treated biosolids that are generated at one treatment plant and are treated at another wastewater treatment facility before land application are not considered separate sources;

(ii) a description of the quality of the biosolids, including analytical results, as identified below:

(a) the required parameters for analysis are found in Table 1 in section 361-3.9 of this Part;

(b) the minimum number of analyses, for each biosolids source is outlined in Table 2 in section 361-3.9 of this Part;

(c) for each analysis, the sampling date, location, and protocol used to obtain representative samples must be provided;

(d) a minimum of six months of biosolids production must be represented by the analytical results submitted. With the exception of pH and total solids, all results must be reported on a dry weight basis;

(e) analyses for other pollutants can be required, on a case-specific basis, based on information from the pretreatment program and other sources;

(f) all analyses must be performed by a laboratory certified by the Department of Health for that type of analysis, using methods acceptable to the department, unless use of an alternate laboratory or method is authorized by the department. Copies of the original laboratory results must be included with the permit application;

(g) the analysis requirement can be satisfied in part or in whole by recent samples analyzed for and reported to the department;

(h) analyses performed more than one year before the date the permit application is submitted are not acceptable;

(i) all samples must be representative of the biosolids to be land applied; and

(j) a table summarizing the analytical results must be provided, including the mean and range of the results found.

(2) A detailed description of the processes to reduce pathogenic organism content and to reduce vector attraction including:

(i) the methods that will be used for pathogen reduction and vector attraction reduction;

(ii) the monitoring and data gathering procedures that will be undertaken to demonstrate compliance including type, location, and frequency; and

(iii) for existing systems, recent operating data and/or analytical data that demonstrate that the system can meet the pathogen and vector attraction reduction criteria.

(3) Calculations showing the proposed nutrient loading rates, including nitrogen, phosphorus, and potassium. The loading rate calculations must be based on the biosolids analyses, impacts of previous waste applications, addition of supplemental nutrients, and the nutrient requirements of the crops grown.

(i) The following formulas must be used to calculate plant-available nitrogen, unless the use of an alternative formula is approved by the department:

NI = percent inorganic nitrogen = percent ammonia + percent nitrate

NO = percent organic nitrogen = percent total kjeldahl nitrogen - percent ammonia

NH3 = percent ammonia

NO3 = percent nitrate

N = nitrogen

A = value based on treatment method employed

A values: A = 2 for composted biosolids

A = 4 for anaerobically digested biosolids

A = 6 for aerobically digested, lime stabilized and air dried biosolids

For waste incorporated into the soil:

Pounds available N per dry ton biosolids = (NI x 20) + (NO x A)

For waste surface applied:

Pounds available N per dry ton biosolids = (NH3 x 10) + (NO3 x 20) + (NO x A)

(ii) If the soil has received biosolids in the past two years, the residual nitrogen in the soil must be included in the nutrient loading calculation. The residual nitrogen must be subtracted from the nitrogen needs of the crop grown before determining the appropriate application rate. The following table must be used to determine the release rate of residual nitrogen:

Release of Residual Nitrogen during Biosolids Decomposition in Soil

Years since last AR Values

biosolids application

A=2	A=4	A=6
1 0.90	1.60	2.10
2 0.51	0.72	0.95

AR = Residual Nitrogen Factor

Residual Available N (pounds N per acre) =

Original Application Rate (dry ton per acre) x Original NO (percent) x AR

(iii) The value(s) used for the nutrient needs of the crop(s) grown must be based on the results of a soil test and resulting nutrient recommendation, or equivalent justification for the value chosen. Copies of the nutrient recommendations must be submitted.

(iv) For phosphorus, 30 percent of the phosphorus applied with the biosolids must be assumed to be available for plant use. For potassium, 100 percent of the potassium applied with the biosolids must be assumed to be available for plant use.

(4) Information concerning the soil pH of the plow layer including the source of this information, and method for adjusting soil pH, if required.

(5) Soil quality data including analyses for pH, arsenic, cadmium, chromium (total), copper, lead, mercury, molybdenum, nickel, selenium, and zinc:

(i) A minimum of 1 analysis is required for every 50 acres, or fraction thereof.

(ii) Each soil sample must be a composite of a minimum of 10 randomly selected sample locations.

(iii) The sampling depth must be consistent with the depth of biosolids incorporation.

(iv) The criteria in clauses (e)(1)(ii)(*f*), (*g*), and (*j*) of this section must be followed.

(6) A biosolids monitoring, sampling, and analysis plan that outlines:

(i) the location, purpose, frequency and method for biosolids sampling; and

(ii) the protocol used to obtain representative samples and the laboratory that will be used for each analysis.

(f) Industrial waste and other waste land application.

In addition to the requirements outlined in subdivisions (a)-(d) of this section, the application for a permit for a land application facility involving waste other than biosolids must contain the following information:

(1) A detailed description of each waste to be land applied, including, at a minimum, the following information:

(i) the source, process, or treatment systems from which the waste originates, including a list and the quantity of all chemicals added during these processes. Material safety data sheets or other data sources providing information specific to these chemicals must be included; and

(ii) treatment or processing techniques used before land application.

(2) Analyses of the waste in accordance with the frequency, parameters, and protocol outlined in paragraph (e)(1) of this section.

(3) In addition to the analyses required in paragraph 361-2.4(e)(1) of this section, the following analyses, in whole or part, may be required, as determined by the department:

(i) fecal coliform, salmonella sp., enteric viruses, viable helminth ova, other applicable pathogens; and

(ii) any or all of the pollutants identified in Part 375 of this Title or by the department.

(4) An outline of the proposed application rates and justification for the values chosen.

(5) For waste containing any domestic sewage or septage, a detailed description of the processes to reduce pathogenic organisms and vector attraction or sufficient data to demonstrate that human pathogenic organisms are not present in the waste.

(6) A waste monitoring, sampling, and analysis plan that outlines:

(i) the location, purpose, frequency and method for waste sampling;

(ii) the analytical parameters;

(iii) the protocol used to obtain representative samples and for the preparation and preservation of samples; and

(iv) and the laboratory that will be used for analyses.

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361-2.5 Design and operating requirements for land application facilities.

A land application facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria. For facilities under this section, a closure plan and financial assurance are not required.

(a) Pollutant limits.

(1) Each waste destined for land application must not exceed the pollutant concentrations found in Table 6 in section 361-3.9 of this Part.

(2) If the waste contains pollutants at concentrations greater than those set forth in this subdivision, a permit for a land application facility will not be issued unless the generator has implemented an identification and abatement program and has remained in compliance with the requirements of this subdivision for a period of at least six continuous months. At least six analyses for total solids and the parameter(s) of concern must be provided to the department to demonstrate compliance.

(3) Wastewater and partially treated biosolids that are generated at one treatment plant and treated at another wastewater treatment facility before land application are not considered separate waste sources.

(b) Land application criteria.

(1) The minimum horizontal distance from the perimeter of the land application area must comply with the values found in the following table with respect to listed features that exist at the time the initial permit application is submitted to the department.

Feature	Minimum horizontal separation distance (in feet)
Property line	50
Residence, place of business, or public contact area when waste is not injected*	500

Residence, place of business, or public contact area when waste is injected*	200
Potable water well	200
Surface water and State regulated wetland when waste is not injected**	200
Surface water and State regulated wetland when waste is injected	100
Drainage swale	25

*Excludes owner’s or operator’s residence

**For food processing waste: 100 feet

(2) Land application is prohibited in areas where groundwater is within 24 inches of the ground surface at the time of application. Verification of depth to groundwater prior to application can be required by the department. If the field is tiled, the top of the tile must be at least 24 inches below the ground surface and the discharge of the tile must be at least 200 feet from a potable well, surface water, and State-regulated wetland.

(3) Land application is prohibited in areas where bedrock lies less than 24 inches below the ground surface.

(4) The hydraulic loading must not exceed 16,000 gallons per acre in any 24-hour period.

(5) Land application is prohibited on land with a slope exceeding 15 percent. Land application of waste with a total solids content of less than 15 percent is prohibited on land with a slope greater than 8 percent, unless incorporated within 1 hour of application along paths parallel to contour lines for the land.

(6) Land application is prohibited in special flood hazard areas unless approved by the department.

(7) The land application rate must not exceed the lower of the agronomic rate or, for waste with neutralizing value, the application rate needed to achieve a soil pH value in an acceptable range for the crop grown. The department can restrict the application rate based on a nutrient other than nitrogen, such as phosphorus. The application rate must be sufficiently reduced to ensure appropriate application rates are not exceeded if supplemental fertilizer (including manure) will be applied to the site.

(8) In all cases, the waste must be incorporated into the soil within 24 hours after application, unless a cover crop would be damaged by incorporation and concerns regarding odor and run-off can be mitigated by other means approved by the department. If incorporation is used for vector attraction reduction, the period before incorporation is limited to six hours or less.

(9) Land application is prohibited on water-saturated ground or during heavy rainfall. Land application is prohibited on snow-covered or frozen ground, except by direct injection below the land surface. Adequate storage or disposal facilities must be available for periods during the year when waste cannot be applied.

(10) Land application is permitted on all soil types that are capable of supporting the robust growth of the crop grown. The use of active farmland is sufficient to demonstrate compliance with this requirement. Otherwise, sufficient information must be provided to demonstrate compliance.

(11) Proper soil conservation practices and agricultural management practices must be used to minimize run-off and soil loss through erosion.

(12) The temporary field stacking of biosolids prior to land application is allowed, provided the following criteria are met:

(i) the storage period is a maximum of 30 days;

(ii) the residuals are stored on the field where they will be applied and the amount stored does not exceed the amount that will be land applied on the site;

(iii) the storage area complies with the site criteria outlined in paragraphs (1), (2), (3), (6) and (10) of this subdivision;

(iv) the storage area must not be located on areas with a slope greater than three percent;

(v) the residuals must have sufficient solids content that they will retain their shape if stacked three feet high and must be formed so that precipitation is shed from the pile;

(vi) any run-off from the stockpile must be contained within the land application site; and

(vii) after removal of the residuals, the storage area must be reseeded.

(c) Monitoring, recordkeeping, and reporting.

(1) Sufficient monitoring data and other information needed to demonstrate compliance with the requirements of this Subpart must be obtained. The frequency and type of monitoring necessary for pathogen and vector attraction reduction will be determined by the department on a case-specific basis and will depend on the monitoring methods employed.

(2) The annual report required by section 360.19(k)(3) of this Title must include:

(i) the location of each field used for land application and the acreage used for land application on the field;

(ii) the crop(s) grown on each field;

(iii) the total quantity of waste applied on each field;

(iv) calculations showing the hydraulic loading and nutrient loading for the fields used for land application;

(v) all analytical results required by this Subpart, including copies of all laboratory reports;

(vi) monitoring data and information to demonstrate compliance with the pathogen and vector attraction reduction requirements of this Subpart, if required;

(vii) for biosolids land application, the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with Subpart 361-2 of 6 NYCRR Part 361 has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that false statements made herein are punishable pursuant to section 210.45 of the penal law."

This statement must be signed by the permit holder or an authorized agent and indicate the name and title of the individual signing;

(viii) a description of any difficulties encountered during land application, any complaints arising as a result of the land application operation and the corrective measures taken; and

(ix) a revised management plan for land application for the next year based on previous application rates and crop planting patterns for the next year. The plan must include an identification of the crops to be grown, fields to be used, and revised nutrient and hydraulic loading rates. All calculations must be included.

(d) Biosolids application.

In addition to the requirements identified in subdivisions (a)-(c) of this section, a land application facility including biosolids must comply with the following criteria:

(1) Land application criteria.

(i) Soil pH must be adjusted to 6.0 standard units or higher before land application unless lime-stabilized biosolids is used. If lime-stabilized biosolids is used, the soil pH must be 6.0 standard units or higher after waste application.

(ii) Land application must not adversely affect a threatened or endangered species or its designated critical habitat.

(iii) The annual cadmium application rate must not exceed 0.45 pounds per acre.

(2) Pathogen and vector attraction reduction.

(i) One of the following Class B pathogen reduction alternatives must be satisfied:

(a) class B - alternative 1. The biosolids must be treated by one of the following processes:

(1) aerobic digestion. Biosolids is agitated with air or oxygen to maintain aerobic conditions for a mean cell residence time of at least 40 days at 20° C or greater or at least 60 days if the temperature is less than 20° C but greater than or equal to 15° C;

(2) air drying. Biosolids is dried on sand beds or on paved or unpaved basins, at a maximum depth of 9 inches. The biosolids must dry for a minimum of three months. During at least 2 of the 3 months, the ambient average daily temperature must be above 0° C;

(3) anaerobic digestion. Biosolids is treated in the absence of air for a mean cell residence time of at least 15 days at 35° C or greater or at least 60 days at less than 35° C but greater than or equal to 20° C;

(4) composting. Using the within-vessel, aerated static pile or windrow composting methods, the temperature of the biosolids is raised to 40° C or higher and remains at 40° C or higher for 5 consecutive days. For at least 4 consecutive hours during the 5 days, the temperature in the compost pile must exceed 55° C;

(5) lime stabilization. Sufficient lime must be added to the biosolids to raise the pH of the biosolids to 12 standard units and maintain this pH for a period of at least 2 hours;

(6) other methods. Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above methods and must be approved by the department; or

(b) class B - alternative 2. The geometric mean of the density of fecal coliform of 7 analyses representative of the biosolids to be land-applied must be less than either 2,000,000 most probable number per gram of total solids (dry weight basis) or 2,000,000 colony forming units per gram of total solids (dry weight basis).

(ii) One of the following vector attraction reduction requirements must be satisfied:

(a) the mass of volatile solids in the biosolids is reduced by a minimum of 38 percent;

(b) if the volatile solids reduction requirement cannot be met for anaerobically digested biosolids, vector attraction reduction can be demonstrated by anaerobically digesting a portion of the previously digested waste in a laboratory bench-scale unit for 40 additional days at a temperature between 30° and 37° C. Vector attraction reduction is achieved if the bench-scale digestion produces less than a 17 percent reduction in volatile solids content;

(c) if the volatile solids reduction requirement cannot be met for aerobically digested biosolids, vector attraction reduction can be demonstrated by aerobically digesting a portion of the previously digested waste that has a percent solids of 2 percent or less in a laboratory bench-scale unit for an additional 30 days at 20° C. Vector attraction reduction is achieved if the bench scale digestion produces less than a 15 percent reduction in volatile solids content;

(d) the specific oxygen uptake rate (SOUR) for biosolids treated in an aerobic process must be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° C;

(e) biosolids is treated by an aerobic process for a minimum of 14 consecutive days. Throughout that treatment time, the temperature of the waste must remain higher than 40° C and the average temperature of the waste must be higher than 45° C;

(f) the pH of the biosolids must be raised to 12 standard units or higher by alkali addition and, without the addition of more alkali, must remain at 12 standard units or higher for 2 hours and then remain at 11.5 standard units or higher for an additional 22 hours;

(g) for biosolids that does not contain untreated solids generated in a primary wastewater treatment process, the percent solids of the waste must be equal to or greater than 75 percent, before mixing with other materials, until land application;

(h) for biosolids that contains untreated solids generated in a primary wastewater treatment process, the percent solids of the waste must be equal to or greater than 90 percent, before mixing with other materials, until land application;

(i) biosolids must be injected below the surface of the land. No significant amount of waste can be present on the land surface within one hour after the waste is applied; or

(j) biosolids must be incorporated into the soil within six hours after application on the land.

(iii) Access and crop restrictions:

(a) public access to land must be restricted during land application and for at least one year after land application. Access must be controlled during that period by the use of posted signs, the use of fences and gates or other appropriate means;

(b) food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface must not be grown for at least 14 months after land application. Food crops with harvested parts below the surface of the land must not be grown for at least 38 months after land application;

(c) food crops grown above the soil with harvested parts that do not touch the biosolids/soil mixture, feed crops and fiber crops must not be grown for at least 30 days after land application;

(d) animals must not be grazed on the land for at least 30 days after land application; and

(e) turf grown on land where biosolids has been applied must not be grown for one year after land application when the harvested turf will be placed on either land with a high potential for public exposure or a lawn.

(3) Monitoring, recordkeeping and reporting.

(i) Each biosolids source must be analyzed annually in accordance with the following:

(a) the parameters for analysis are found in Table 1 in section 361-3.9 of this Part;

(b) the minimum number of analyses, for each biosolids source, is dependent upon the amount of waste that was land applied, as indicated in Table 3 in section 361-3.9 of this Part;

(c) with the exception of pH and total solids, all results must be reported on a dry weight basis. The analyses must comply with the criteria found in section 361-2.4(e)(1)(ii)(*f*), (*g*) and (*j*) of this Subpart. After the waste has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the quality is consistently significantly below the quality standards; and

(d) wastewater and partially treated biosolids that are generated at one facility and treated at another wastewater treatment facility before land application are not considered separate sources subject to the criteria in this paragraph. The resultant biosolids generated for land application are subject to this paragraph.

(ii) Sufficient monitoring data and other information must be obtained and retained to demonstrate compliance with the requirements of this Subpart. The frequency and type of monitoring necessary to demonstrate compliance with pathogen and vector attraction reduction criteria will depend on the methods used, and will be determined by the department.

(iii) Annual soil sampling is required. Criteria applicable to annual soil sampling are found in section 361-2.4(e)(5) of this Subpart.

(e) Land application of other waste.

In addition to the requirements identified in subdivisions (a)-(c) of this section, a facility for waste other than biosolids or septage must comply with the following criteria:

(1) Domestic sewage or septage content. If there is any domestic sewage or septage contribution to the treatment facility generating the waste, the waste treatment process must satisfy the pathogen and vector attraction reduction requirements of this Subpart unless it can be demonstrated that the sanitary waste is a minor portion of the waste stream and that salmonella sp. bacteria, enteric viruses, and viable helminth ova are below detectable levels.

(2) Nutrient or lime content. The waste must contain at least 1 percent total kjeldahl nitrogen or at least 50 percent calcium carbonate equivalence, or provide sufficient documentation to demonstrate that the material is a benefit to the soil or plant grown.

(3) Monitoring, recordkeeping, and reporting. Annual waste monitoring can be required, depending on the characteristics of the waste. The parameters for analysis and the frequency will be determined by the department depending on the quantity and quality of the waste.

6 CRR-NY 361-2.5

6 CRR-NY 361-2.6

6 CRR-NY 361-2.6

361-2.6 Permit application requirements for storage facilities.

A storage facility for waste destined for land application, that is not an exempt facility or subject to the registration provisions of section 361-2.3 of this Subpart, must obtain a permit and must submit an application that includes the requirements identified in this section and section 360.16 of this Title. The application must include:

(a) For surface impoundments, a construction plan for the facility including a construction quality assurance/construction quality control plan.

(b) For surface impoundments, a hydrogeologic report that is consistent with the applicable provisions of Part 363 of this Title and that identifies or characterizes the depth to groundwater and bedrock, the critical stratigraphic section and the direction of groundwater flow. The report must also discuss the monitorability of the facility, location of any recharge areas for primary or principal aquifers and the location of any unstable areas.

(c) A description of how the facility will comply with the operating requirements in Part 360 of this Title and section 361-2.7 of this Subpart.

6 CRR-NY 361-2.6

6 CRR-NY 361-2.7

6 CRR-NY 361-2.7

361-2.7 Design and operating requirements for storage facilities.

A storage facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria.

(a) The minimum horizontal separation distances from the perimeter of the storage facility must be, at a minimum, 50 feet to the property line, 100 feet to a surface water body or potable water well, and 500 feet (1,500 feet for a surface impoundment or open tank) to a residence, place of business, or public contact area. The separation requirement does not apply to the landowner’s or operator’s residence.

(b) All samples obtained from the storage facility must be representative of the waste stored. The number of samples necessary will be determined by the department based on the waste type and quantity of waste stored.

(c) All storage facilities must be completely emptied, cleaned, and inspected at least once every 12 months. The department must be notified at least 5 business days before the cleaning operation is begun. Any damage or deterioration revealed by the inspection must be repaired before the storage facility again receives waste.

(d) Surface impoundments must be constructed above the special flood hazard area and must be constructed with a liner system to minimize percolation. The liner system must consist of either a minimum of two feet of compacted soil having a maximum remolded hydraulic conductivity of

$1x10^{-7}$ centimeters per second or a geomembrane material approved by the department. The soil material particles must be able to pass through a one-inch screen.

(e) For surface impoundments, the facility must be monitorable and must not be located within the recharge area of a primary or principal aquifer or in an unstable area.

(f) If soil is used for a liner, the construction criteria in section 363-6.7(b)(2)(ii) and (iii) of this Title apply.

(g) Surface impoundments must maintain a minimum of two feet of freeboard. The bottom of the impoundment liner system must be a minimum of five feet above both seasonal high groundwater and bedrock.

(h) A minimum of one upgradient and two downgradient monitoring wells, or more as determined by the department, must be installed at a surface impoundment facility. If multiple surface impoundments are used and are not in close proximity to each other, then each impoundment must have separate monitoring well arrays.

(i) Existing water quality must be established before placement of any waste in a surface impoundment.

(j) Storage facilities other than surface impoundments can be constructed of concrete, steel, or other material approved by the department. The storage facility must be designed to maintain a minimum of two feet of freeboard.

(k) Quarterly sampling of the wells at surface impoundments must be conducted for the following parameters: chloride, nitrate, ammonia, sulfate, specific conductivity, total hardness, alkalinity, total organic carbon and chemical oxygen demand. In addition, for biosolids storage facilities, annual sampling is required for the following parameters: arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, zinc, boron, barium, beryllium, cyanide, turbidity and volatile organic compounds. All samples must be representative of the material sampled. All analyses must be performed by a laboratory certified by the Department of Health, using methods acceptable to the department, unless use of an alternate laboratory or method is authorized by the department.

(1) The department can require sampling for additional parameters based on the type of waste stored and past monitoring results.

(2) Sampling results reported to the department must include a copy of the laboratory results, sampling methods, sampling personnel, dates and times samples were taken, purge volumes, field parameters and other relevant information.

(3) The department must be notified at least five business days before each sampling event.

6 CRR-NY 361-2.7

6 CRR-NY IV B 361 361-3 Notes

NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER IV. QUALITY SERVICES

SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-3. COMPOSTING AND OTHER ORGANICS RECYCLING FACILITIES

6 CRR-NY IV B 361 361-3 Notes

6 CRR-NY IV B 361 361-3 Notes

6 CRR-NY 361-3.1

6 CRR-NY 361-3.1

361-3.1 Applicability.

This Subpart applies to composting and other organics processing facilities for municipal solid waste, source-separated organics (SSO), biosolids, septage, yard trimmings and other organic waste and the resultant products. An organics processing facility treats the readily biodegradable organic components in waste to produce a mature product for use as a source of nutrients, organic matter, liming value, or other essential constituent for a soil or to help sustain plant growth. The processes include, but are not limited to, composting, vermiculture, anaerobic digestion, fermentation, and Class A processes (see section 361-3.7 of this Subpart for Class A processes). An organics waste processing facility also includes processes to convert biodegradable organic components in food scraps into animal feed including pet food. The requirements contained in Part 360 of this Title also apply to this Subpart.

6 CRR-NY 361-3.1

6 CRR-NY 361-3.2

6 CRR-NY 361-3.2

361-3.2 Composting facilities.

(a) Exempt facilities.

The following facilities are exempt from this Subpart when operated in a manner that does not produce vectors, dust or odors that unreasonably impact neighbors of the facility, as determined by the department, and when no waste accepted remains on-site for more than 36 months. No

more than one exempt facility specified in this section can be located on geographically contiguous land owned or operated by the same person.

(1) A composting facility located at a site controlled by the waste generator, in accordance with section 360.14(c)(1) of this Title.

(2) A composting facility that accepts, measured on a monthly average, no more than 1,000 pounds or 1 cubic yard, whichever is greater, of SSO per week provided no more than 2,000 pounds are accepted in any one week. Sufficient bulking agent must be used to provide proper aeration and control leachate migration.

(3) A composting facility that accepts no more than 3,000 cubic yards of yard trimmings per year. This quantity does not include tree debris that is not intended for composting. For these facilities, precipitation, surface water, and groundwater that has come in contact with yard trimmings or the resultant product is not considered leachate; however, it must be managed within the site and must not enter a surface waterbody or a conveyance to a surface waterbody, or cause a violation of water quality standards promulgated in Part 750 of this Title.

(4) A composting facility located on a farm for animal carcasses. If the farm is not located on a concentrated animal feeding operation (CAFO), no more than 10 carcasses per year can be from off-site sources and the animal carcasses must be placed within the compost pile on the day received.

(5) A composting facility on property controlled by a State agency or a municipal entity for animal carcasses generated on properties under their control.

(6) A composting facility for animal manure and bedding or crop residues.

(7) A composting facility located on a CAFO, provided the waste accepted is limited to manure, food processing waste, fats, oil, grease, and other organic wastes without sanitary content.

(b) Registered facilities.

Facilities of the following types are subject to the registration provisions of section 360.15 of this Title unless otherwise exempt. Each facility must comply with the criteria in section 360.19 of this Title and the operational criteria in this subdivision.

(1) A composting facility that accepts more than 3,000 cubic yards but not more than 10,000 cubic yards of yard trimmings per year, either processed or unprocessed. This quantity does not include tree debris that is not intended composting. The windrows must be turned a minimum of two times per year. For these facilities, precipitation, surface water, and groundwater that has come in contact with yard trimmings or the resultant compost is not considered leachate, but must be managed in a manner acceptable to the department.

(2) A composting facility that accepts no more than 5,000 cubic yards or 2,500 wet tons, whichever is less, of SSO per year, provided that no more than 800 cubic yards are accepted in any month. The facility must have, and use, at least twice as much bulking agent, by volume, as organic waste. The facility must effectively remove non-processibles that may be present within

the SSO. The facility must effectively remove non-processible material that can be present with the SSO.

(3) A composting facility for road-killed animals or routine animal mortalities.

(4) A composting facility for digestate, if allowed under section 361-3.3 of this Subpart.

(c) Operating criteria for registered facilities.

A registered facility must be operated in compliance with section 360.19 of this Title and the following conditions.

(1) The maximum detention time, from material acceptance to compost distribution, is 24 months.

(2) Only tree debris can be used as a wood source for use as an amendment or bulking agent.

(3) Methods of composting that result in a mature product must be followed.

(4) The facility must have a written run-on and run-off plan that is acceptable to the department that outlines the methods that will be used to prevent run-on from entering and run-off from leaving the site and minimizing the movement of organic matter into the soil under the site.

(5) Storage facilities used for leachate collection must be designed in accordance with the Natural Resources Conservation Servies (NRCS) NY313 standards, as incorporated by reference in section 360.3 of this Title.

(6) The facility must be constructed to minimize any ponding, and run-off must be effectively controlled.

(7) The facility must be at least 200 feet from the nearest surface water body, potable water well and state-regulated wetland, unless provisions are implemented to prevent leachate from leaving the boundaries of the site, in a manner acceptable to the department.

(8) The facility must be at least 200 feet from the nearest residence or place of business. This requirement does not apply to the generating business or any residence or place of business built after the facility began operation. The buffer area can be reduced if means (such as enclosed vessels, etc.) acceptable to the department are used to reduce the potential for odor transmission.

(9) The facility must keep written records that demonstrate compliance with the registration criteria.

(10) All waste received must be source-separated. Material received in its original packaging (off-spec bakery items, etc.) that will be depackaged prior to composting are allowed.

(11) The facility must not produce odors that unreasonably impact sensitive receptors, as determined by the department. The department can require a reduction in the amount of waste accepted, or other actions, to address odor issues.

(12) Other than leaves or packaged products, all bulk organic waste must be processed on the day received. If the organics are received in closed containers (*e.g.*, toters, etc.), the waste can be stored up to three days.

(d) Permit application requirements.

A composting facility that does not qualify for an exemption or a registration under this Subpart must obtain a permit and must submit an application that includes the requirements identified in this section and section 360.16 of this Title. The application must include the following:

(1) A detailed description of the source, quality, and quantity of all waste to be composted, including the source, quality, and expected quantity of any bulking agent or amendment. The description must include the annual input and any seasonal variations in the waste type and quantity, and the appropriate quality data, as determined by the department.

(2) A design and operation plan that includes:

(i) a description of how the facility will comply with the operating requirements in Part 360 of this Title and subdivision (e) of this section;

(ii) a description and the capacity of the storage facilities used for waste, bulking agent or amendment, and product;

(iii) a description of all preprocessing and post-processing methods and equipment used to identify and remove nonprocessible materials and a copy of all agreements or educational activities that will be used to outline acceptable materials for the facility;

(iv) a description of the storage and disposal location for recyclables (if applicable) and nonprocessable materials;

(v) a process flow diagram of the entire process, including all major equipment and flow streams. The flow streams must indicate the quantity of material on a wet weight, dry weight, and volumetric basis;

(vi) an outline of the processing duration, including the time period from acceptance of waste to completion of composting, through distribution of the product;

(vii) windrow dimensions including width, length, and height, if used;

(viii) a description of the air emission collection and control equipment, if used;

(ix) a description of the method used to control surface water run-off and to manage leachate, including the method for treatment or disposal of leachate generated. For uncovered facilities, calculations of the run-off and leachate that must be handled at the facility, based on a rainfall intensity of 1-hour duration and a 10-year return period; and

(x) for facilities that will use a low-permeability soil to minimize leachate release, a construction quality assurance/construction quality control plan as outlined in Part 363 of this Title.

(3) An odor control and response plan. The plan must describe how odors will be monitored and how any odor problems will be addressed.

(4) A compost maturity and distribution plan that includes:

(i) an outline of the method that will be used to determine product maturity, including proposed standards for maturity and the monitoring methods or other means that will be used to measure maturity;

(ii) a description of the ultimate use for the finished compost, including the approximate quantity of product each type of user (such as residents or landscapers) are expected to take, the frequency of distribution, the expected use of the product, and the source of this information (such as contract or phone survey);

(iii) the method for removing compost from the facility;

(iv) a description of the proposed use or disposal of product that cannot be used in the expected manner due to poor quality or change in market conditions; and

(v) a copy of the label or other information source for the product, if required.

(5) Analyses of the bulking agent or amendment for the parameters listed in Table 1 of section 361-3.9 of this Subpart, if deemed necessary by the department based on the type of material used.

(6) Yard trimmings composting. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, an application for a permit for a composting facility for yard trimmings must include the following information:

(i) A description and identification of the surface soil characteristics for the proposed facility and depths to the seasonal high groundwater table and bedrock.

(ii) A description of the source and composition of the yard trimmings, including the anticipated quantity of each type of material (*e.g.*, grass clippings, leaves) and how each will be handled at the facility.

(iii) A description of all activities at the facility including those portions of the facility that would otherwise qualify as an exempt facility or a registered facility under this Subpart.

(7) Source-separated organics composting. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, an application for a permit for a composting facility for SSO must include the following information:

(i) For residential SSO, a description of the service area. For commercial and institutional SSO, the description must include a list of all types of generating facilities and the type and approximate quantity of wastes that will be collected from each type of generator.

(ii) A detailed description of the source-separation program at the point of generation, including how unacceptable wastes are separated from the SSO stream. For residential SSO, this must include a copy of all educational literature or other information provided to residents, and a description of the container(s) that will be used. For commercial and institutional SSO, this must include a copy of any agreements or information concerning what can be accepted from the generator and the collection containers that will be used.

(iii) A detailed description of the proposed processes to reduce pathogenic organism content and to reduce vector attraction (see section 361-3.7 of this Subpart) including:

(a) the methods that will be used for pathogen reduction and vector attraction reduction; and

(b) the monitoring and data gathering that will be used to demonstrate compliance including type, location, and frequency.

(8) Biosolids, septage, and other sludges. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, the application must include the following information. Wastewater and partially treated biosolids that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before composting are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for composting are subject to this paragraph.

(i) A description of each proposed source including the name of the generator, the annual quantity of waste produced, the amount to be composted, and any seasonal variations in the quantity or quality during the year. Also, a description of the Federal or State pretreatment program, if required; and

(ii) A description of the quality of the waste, including analytical results, as outlined below:

(a) the required parameters for analysis are in Table 1 of section 361-3.9 of this Subpart;

(b) the minimum number of analyses for each source that must be submitted with the application is dependent upon the amount of waste that will be composted annually, as outlined in Table 2 in section 361-3.9 of this Subpart;

(c) for each analysis, the sampling date, location, and protocol used to obtain representative samples must be indicated;

(d) a minimum of six months of waste production must be represented by the analytical results submitted. With the exception of pH and total solids, all results must be reported on a dry weight basis;

(e) analyses for other pollutants can be required by the department, based on the characteristics of the waste and information from the pretreatment program and other sources;

(f) each analysis must be performed by a laboratory certified by the Department of Health for that type of analysis, unless use of an alternate laboratory is authorized by the department. Copies of the original laboratory results must be included with the permit application;

(g) the analysis requirement can be satisfied in part or in whole by recent samples analyzed for and reported to the department;

(h) analyses performed more than one year before the date the permit application is submitted are not acceptable;

(i) all samples must be representative of the waste to be processed; and

(j) a table summarizing the analytical results must be provided, including the mean and range of results found.

(iii) A detailed description of the proposed processes to reduce pathogenic organism content and to reduce vector attraction including:

(a) the methods that will be used for pathogen reduction and vector attraction reduction; and

(b) the monitoring and data gathering that will be used to demonstrate compliance including type, location, and frequency.

(9) Municipal solid waste. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, the application must include:

(i) a description of the recyclables separation and reuse program, the management of household hazardous waste (HHW), and the radioactive waste detection program, including:

(a) the methods used for removing recyclables, at the point of generation and at the facility;

(b) the method and length of storage for recyclables;

(c) the markets for recyclables;

(d) the method used to remove HHW from the waste stream, at the point of generation and at the facility;

(e) the ultimate management method for HHW collected;

(f) a radioactive waste detection plan that includes procedures for detecting prohibited radioactive material; operation and maintenance documents for radiation detectors including investigation alarm setpoint settings and calibration methods; and response procedures to be implemented when radioactive waste is detected.

(e) Design and operating requirements.

A composting facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria:

(1) Unlined yard trimmings compost areas located on soils with a coefficient of permeability greater than six inches per hour may require installation of groundwater monitoring wells or other monitoring devices and groundwater monitoring, as determined by the department.

(2) For yard trimmings composting facilities without a low-permeability pad, composting must not occur in areas where the seasonal high groundwater table is less than 24 inches from the ground surface or where bedrock lies less than 24 inches below the ground surface.

(3) The bottom of any surface impoundment at a yard trimmings composting facility with a capacity of 10,000 gallons or more must be a minimum of 5 feet above both the seasonal high groundwater table and the top of bedrock. Impoundments with a capacity less than 10,000 gallons must be a minimum of 2 feet above both the seasonal high groundwater table and the top of bedrock.

(4) Stormwater must be diverted away from the composting area.

(5) Precipitation, surface water, and groundwater that has come in contact with yard trimmings or the resultant compost is not considered leachate, but must be managed in a manner acceptable to the department. Drainage must be controlled to prevent run-off from the facility and organic matter from entering surface water or groundwater. For uncovered facilities, the design of the facility must be adequate to handle the quantity of liquid generated at the facility based on a rainfall intensity of 1-hour duration and a 10-year return period.

(6) All leachate must be collected and disposed in a manner approved by the department. For uncovered composting facilities, the leachate collection and treatment system must be adequate to manage the quantity of leachate generated at the facility based on a rainfall intensity of 1-hour duration and a 10-year return period. All leachate storage facilities must be completely emptied, cleaned, and inspected every 12 months.

(7) For composting facilities other than those for yard trimmings alone, the waste storage area, composting area, leachate storage and product storage area at the facility must be located on surfaces that minimize leachate release into the groundwater under the facility and the surrounding land surface, such as asphalt (except for leachate storage), concrete, or drying beds that have underdrains for leachate collection. All leachate storage structures, other than tanks, must be designed in accordance with Subpart 361-2 of this Part or code NRCS NY313, as incorporated by reference in section 360.3 of this Title. The following criteria also apply:

(i) If low permeability soils are used, the liner must be a minimum of two feet of compacted soil having a maximum remolded coefficient of permeability of 1×10^{-7} centimeters per second. The soil material particles must be able to pass through a one-inch screen. The applicable criteria in Part 363 of this Title must be met.

(ii) If a geomembrane is used, the liner system must be designed and built in accordance with the applicable criteria in Part 363 of this Title.

(iii) If a surface impoundment is used for leachate storage, a minimum of two feet of freeboard must be maintained. In addition, the bottom of the liner system must be a minimum of five feet above both seasonal high groundwater elevation and the top of bedrock.

(iv) Compost storage beyond the 50-day detention time requirement is not required to occur on a low-permeability surface.

(8) All unloading, storage and composting areas, except those handling yard trimmings alone, at facilities that have an average capacity of 100 wet tons per day or greater must be enclosed. For SSO composting facilities, the incoming SSO must be under cover regardless of quantity accepted.

(9) If used, windrow construction, composition, and operational procedures must be sufficient to maintain aerobic conditions and to produce a compost product in the time-frame desired.

(10) The facility must be operated in a manner to control the generation and migration of odors to a level that is to be expected from a typical facility operated in compliance with the regulatory criteria of this Subpart, as determined by the department.

(11) The minimum horizontal separation distance as measured from the facility to the nearest residence, place of business or public contact area (except turf farms and plant nurseries) is 200 feet for yard trimmings or SSO, and 500 feet for other wastes. In addition:

(i) yard trimmings composting facilities without a pad and leachate collection system must maintain a minimum separation of 200 feet to a potable water well or surface water body and 25 feet to a drainage swale;

(ii) the separation distance requirement from a public contact area can be reduced for totally enclosed facilities or other mitigating landscape features, as determined by the department;

(iii) the separation distance requirement applies at the time the permit application is submitted to the department. The facility is not required to comply with the separation requirement with respect to construction of nearby residences, places of business or public contact areas subsequent to the permit application; and

(iv) the separation distance requirement for a residence does not apply to the residence of the facility landowner or operator. For a municipal permittee, land owned by any agency or department of the municipality is considered to be owned by the municipality.

(12) The operation of the facility must follow acceptable methods of composting that results in the decomposition of the organic material received. For yard trimmings composting, leaves in bags must be debagged or otherwise incorporated into the process within 60 days of receipt. Bags containing primarily grass clippings must be debagged and mixed with a bulking agent within 24 hours of receipt.

(13) The facility can only accept SSO from a generator that has a collection program designed to collect organic waste separate from other recyclables and waste materials and to remove inorganic and nonprocessible materials from the SSO generated. This does not prohibit the facility from accepting packaged products that will be processed prior to composting. The facility must also have provisions for inspection and removal of nonprocessible materials received.

(14) The facility is prohibited from accepting wastes that do not positively contribute to the composting process or the quality of the product, as determined by the department. Prohibited waste includes, but is not limited to, construction and demolition debris, and ash from the combustion of municipal solid waste.

(15) Compost ready for the designated market can not be stored at the facility for more than 24 months.

(16) Noncompostable waste and unacceptable product must be disposed at least weekly unless the material generated in a week is less than 15 cubic yards. Biweekly disposal is allowed if the weekly material generated is less than 15 cubic yards.

(17) For facilities accepting municipal solid waste:

(i) a recyclables separation program and a HHW collection program must be in place in the generating community(ies) and at the facility;

(ii) recyclables must be removed from the waste stream before active composting;

(iii) a fixed radiation detection unit must be installed and operated at a location appropriate for the monitoring of all incoming waste. In addition:

(a) the investigation alarm setpoint of the radiation detector must be set at least two times but no greater than five times background radiation levels;

(b) the concentration of radium-226 in any waste composted at the facility cannot exceed 25 pCi/g;

(c) background radiation readings at the facility must be measured and recorded at least daily;

(d) field checks of the radiation detector utilizing a known radiation source must be performed and recorded at least weekly;

(e) the radiation detector must be calibrated at least annually or more often as recommended by the manufacturer, and documentation describing the calibration must be maintained at the facility; and

(f) each instance in which the radiation detector is triggered by a waste load must be documented and reported to the department within 24 hours. Recorded information must include the date the waste was received, transporter name, origin of the waste, truck number or other identifying marking, detector reading, disposition of the waste, and date of disposition;

(iv) all waste storage and composting areas must be enclosed.

(18) Facilities that accept SSO, municipal solid waste, biosolids, septage, and other wastes with potential pathogen concern, as determined by the department, are required to comply with the pathogen and vector attraction reduction criteria outlined in section 361-3.7 of this Subpart.

(19) A compost product that does not meet the criteria in paragraphs (19)-(24) of this subdivision is considered a waste and must be disposed or reprocessed (if feasible).

(20) The compost can be distributed for use for food crops, feed crops, and fiber crops.

(21) The product must not contain pollutant levels greater than those found in Table 6 of section 361-3.9 of this Subpart. The addition of sawdust, soil, or other materials to the process or product for dilution purposes is not allowed.

(22) The product must not contain more than two percent total gross contaminants by weight (dry weight basis).

(23) The product must be able to pass through a one-inch screen, except for wood particles derived from the use of wood chips as a bulking agent or amendment.

(24) The compost product must be mature and must be used in a legitimate manner as a soil amendment, for erosion control, etc. The process must have a minimum detention time (including active composting and curing) of 50 days, unless an alternate means for achieving sufficient maturity is approved by the department.

(25) Except for products derived solely from yard trimmings, an information label must be affixed to the product packaging or, for bulk, an information sheet, sign, or brochure must be used containing:

(i) the name and address of the generator of the product;

(ii) the type of waste from which the product was derived; and

(iii) recommended safe uses, application rates and storage practices.

(26) For facilities that accept biosolids, septage, or other sludges, each waste source must not exceed the pollutant concentrations found in Table 6 of section 361-3.9 of this Subpart, unless the waste source is a minor (less than 10 percent of the total dry weight of sludges accepted) component of the input to the facility and a program is developed to identify and reduce the pollutant(s) that exceed the limits for that waste source. This requirement does not apply to products used outside New York State.

(i) If a waste input, other than a minor source, contains metals at concentrations greater than those set forth in Table 6 of section 361-3.9, the waste cannot be accepted at the facility until the generator has implemented a pollutant identification and abatement program and compliance with the requirements of this paragraph has been demonstrated for waste representing a period of at least six continuous months. At least six analyses for total solids and the parameter of concern must be provided to demonstrate compliance. This requirement does not apply to products used outside New York State.

(ii) Wastewater and partially treated biosolids that are generated at one wastewater treatment facility and are further treated at another wastewater treatment facility before composting are not

considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for composting are subject to this paragraph.

(27) Any material added to the process must not contain pollutants in concentrations that exceed the levels found in Table 6 of section 361-3.9 of this Subpart.

(28) Analysis of the product, other than yard trimmings compost, is required for the parameters in Table 1 of section 361-3.9 of this Subpart. The frequency of sampling is specified in Tables 4 and 5 of section 360-3.9 of this Subpart. All samples must be representative of the product that will be distributed. With the exception of pH and total solids, all results must be reported on a dry weight basis. Copies of the original laboratory results must be included.

(i) Each sample must be a composite of at least five grab samples.

(ii) After the product has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the product quality consistently meets the product quality standards in Table 6 of section 361-3.9 of this Subpart.

(29) Sufficient monitoring data must be obtained to demonstrate compliance with the pathogen and vector attraction reduction requirements, if applicable. The frequency and type of monitoring necessary, based on the methods employed to achieve pathogen and vector attraction reduction, will be determined by the department. At a minimum, temperature monitoring must occur on a daily basis in the coldest part of the waste mass.

(30) The department can require, on a case-specific basis, testing of the compost for maturity before distribution. This can include, but is not limited to, potential for reheating, organic matter reduction, plant growth impact, or oxygen consumption.

(31) Each biosolids, septage, and sludge source must be analyzed each year in accordance with the following:

(i) The required parameters for analysis are found in Table 1 of section 361-3.9 of this Subpart.

(ii) The minimum number of analyses required depends on the quantity of waste composted, as outlined in Table 3 of section 361-3.9 of this Subpart.

(iii) With the exception of pH and total solids, all results must be reported on a dry weight basis. After the waste has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the waste quality consistently meets the quality standards.

(iv) Wastewater and partially treated biosolids or septage that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before beneficial use are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated are subject to this paragraph.

(32) For other wastes, annual analyses of the input waste can be required, as determined by the department, based on the characteristics of the waste. The extent and frequency of sampling will be determined by the department.

(33) The annual report must include:

(i) all information and analyses required by this Subpart;

(ii) the type and quantity of the waste, and other materials such as bulking agents, being composted, including the source of the material;

(iii) process operational information including monitoring data and significant facility operational problems and any actions taken to correct problems;

(iv) for facilities that accept biosolids, the following certification statement must be signed by an authorized representative of the facility, with an indication of the name and title of the individual signing:

“I certify, under penalty of law, that the information that will be used to determine compliance with the requirements in Subpart 361-3 of 6 NYCRR Part 361 has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that false statements made herein are punishable pursuant to section 210.45 of the penal law.”

(v) the quantity, by weight and volume, of product generated at the facility and the quantity of product and other waste, including unacceptable product, removed from the facility; and

(vi) a description of the end-product distribution and disposal methods.

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361-3.3 Anaerobic digestion facilities.

(a) Exempt facilities.

The following facilities are exempt from this Subpart when operated in a manner that does not produce vectors, dust or odors that unreasonably impact neighbors of the facility, as determined by the department. The digestate must be stored and used in a manner that is protective of the environment.

(1) An anaerobic digestion facility located at a site controlled by the waste generator, in accordance with section 360.14(c)(1) of this Title.

(2) An anaerobic digestion facility that accepts only animal manure and bedding.

(3) An anaerobic digestion facility that accepts no more than 1,000 pounds or 1 cubic yard, whichever is greater, of SSO per week on a monthly average. No more than 2,000 pounds can be accepted in any week.

(4) An anaerobic digestion facility located on a CAFO or a farm with an approved CNMP provided that the waste accepted is limited to manure, food processing waste, fats, oil, grease, and other organic wastes without sanitary content. The non-manure waste received must not exceed 50 percent, by volume, of waste placed in the anaerobic digester on an annual basis. Anaerobic digestion facilities that are not owned by the farm must be covered by the farm's CAFO approvals. Digestate is managed as follows:

(i) land application of the digestate, provided the nutrient loading is addressed in a CNMP is exempt. Otherwise, registration under section 361-2.3(b) of this Part is required;

(ii) use of dewatered solids for animal bedding is exempt;

(iii) use of blended dewatered solids as a topsoil (no more than 50 percent digestate in the mix), provided the material does not cause odors when stored or used is exempt;

(iv) a composting facility for the dewatered solids located on a farm is exempt. Otherwise, registration under section 361-3.2(b)(4) of this Subpart is required; and

(v) storage of liquid digestate, other than at a CAFO or a farm that otherwise has an approved CNMP, must be in compliance with National Resource Conservation Service (NRCS) code NY313.

(b) Registered facilities.

Facilities of the following types are subject to the registration provisions of section 360.15 of this Title unless otherwise exempt. Each facility must comply with the criteria in section 360.19 of this Title and the operational criteria in subdivision (c) of this section.

(1) An anaerobic digestion facility that accepts less than 50 tons of waste per day or is located on a CAFO or a farm with an approved CNMP. The waste must not contain sanitary content. Incoming waste must be stored in a vessel or other enclosed device and odors must be controlled. Digestate must be managed as follows:

(i) land application of the digestate, provided the nutrient loading is addressed in a CNMP is exempt. Otherwise, registration under section 361-2.3(b) of this Part is required;

(ii) use of the dewatered solids for animal bedding is exempt;

(iii) use of the blended dewatered solids as a topsoil (no more than 50 percent digestate in the mix) is exempt, provided they do not cause odors when stored or used;

(iv) a composting facility for the dewatered solids located on a farm is exempt. Otherwise, registration under section 361-3.2(b)(4) of this Subpart is required; and

(v) storage of liquid digestate, other than at a CAFO or a farm that otherwise has an approved CNMP, must be in compliance with National Resource Conservation Service (NRCS) code NY313.

(c) Operating criteria for registered facilities.

A registered facility must be operated in compliance with section 360.19 of this Title and the following conditions:

(1) Material accepted cannot remain at the facility for more than 24 months.

(2) The facility must be constructed to minimize any ponding, and run-off must be effectively controlled.

(3) Waste accepted must be stored in a vessel or in an enclosed area.

(4) The facility must be at least 200 feet from the nearest surface water body, potable water well and State-regulated wetland, unless other means to protect water resources are approved by the department.

(5) The facility must be at least 200 feet from the nearest residence or place of business. This exclusion does not apply to the waste generating business or any residence or place of business built after the facility began operation. The buffer area can be reduced by the department if means acceptable to the department are used to reduce the potential for odor transmission.

(6) The facility must keep written records of all materials entering and leaving the facility and the corresponding dates.

(7) All waste received must be source-separated. Material received in its original packaging (for example, off-spec drinks) that will be depackaged prior to digestion is allowed.

(8) Digestate must be used in a manner that does not cause negative animal health or environmental impacts. If used as a soil amendment, agronomic rates must be followed.

(9) The facility must not produce odors that unreasonably impact sensitive receptors, as determined by the department. The department can require a reduction in the amount of waste accepted, or other actions, to address odor issues.

(d) Permit application requirements.

An anaerobic digestion facility that does not qualify for an exemption or a registration under this Subpart must obtain a permit and must submit an application that includes the requirements identified in this section and section 360.16 of this Title. The application must include the following:

(1) A detailed description of the source, quality, and quantity of all waste to be digested, including the source, quality, and expected quantity of any seed material. The description must

include the annual input and any seasonal variations in the waste type and quantity, and the appropriate quality data, as determined by the department. If SSO is accepted:

(i) A detailed description of the source-separation program at the point of generation, including how unacceptable wastes are separated from the SSO stream. For residential SSO, this must include a copy of all educational literature or other information provided to residents, and a description of the container(s) that will be used. For commercial and institutional SSO, this must include a copy of any agreements or information concerning what can be accepted from the generator and the collection containers that will be used.

(2) An operation plan that includes:

(i) a description of how the facility will comply with the operating requirements in Part 360 of this Title and subdivision (e) of this section;

(ii) a description and the capacity of the storage structures and the digesters;

(iii) a description of all preprocessing and post-processing methods and equipment used to identify and remove all nonprocessible materials and a copy of all agreements or educational activities that will be used to outline acceptable materials for the facility;

(iv) a description of the storage and disposal location for nonprocessible materials;

(v) a process flow diagram of the entire process, including all major equipment and flow streams. The flow streams must indicate the quantity of material on a wet weight, dry weight, and volumetric basis;

(vi) an outline of the processing duration, including the time period from acceptance of waste to completion of digestion and to distribution of the product;

(vii) a description of the air emission collection and control equipment, if used; and

(viii) a description of the method used to control surface water run-off and to manage leachate, including the method for treatment or disposal of leachate generated.

(3) An odor control and response plan. The plan must describe how odors will be monitored and how any odor problems will be addressed.

(4) A digestate use plan that includes:

(i) a description of the use(s) for the digestate (liquid, solids, or combined), including the approximate quantity of each type of user, the frequency of distribution, the expected use of the material, and the source of this information (such as contract or phone survey);

(ii) the method for removing digestate from the facility and any off-site storage;

(iii) a description of the proposed management of digestate that cannot be used in the expected manner due to poor quality or change in market conditions; and

(iv) a copy of the label or other information source for the digestate.

(5) A detailed description of the proposed processes to reduce pathogenic organism content and to reduce vector attraction including:

(i) the methods that will be used for pathogen reduction and vector attraction reduction; and

(ii) the monitoring and data gathering that will be used to demonstrate compliance including type, location, and frequency.

(6) Biosolids, septage, and other sludges. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, the application must include the following information. Wastewater and partially treated biosolids or septage that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before digestion are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for digestion are subject to this paragraph.

(i) A description of each proposed source of waste including the name of the generator, the annual quantity of waste produced, the amount of waste to be digested, and any seasonal variations in the quantity or quality during the year. Also, a description of the Federal or State pretreatment program, if required; and

(ii) A description of the quality of the waste, including analytical results, as outlined below:

(a) the required parameters for analysis are in Table 1 of section 361-3.9 of this Subpart;

(b) the minimum number of analyses for each waste source that must be submitted with the application is dependent upon the amount of waste that will be digested annually, outlined in Table 2 in section 361-3.9 of this Subpart;

(c) for each analysis, the sampling date, location, and protocol used to obtain representative samples must be indicated;

(d) a minimum of six months of waste production must be represented by the analytical results submitted. With the exception of pH and total solids, all results must be reported on a dry weight basis;

(e) analyses for other pollutants can be required by the department, on a case-specific basis, based on the characteristics of the waste and information from the pretreatment program and other sources;

(f) each analysis must be performed by a laboratory certified by the Department of Health for that type of analysis, using methods acceptable to the department, unless use of an alternate laboratory is authorized by the department. Copies of the original laboratory results must be included with the permit application;

(g) the analysis requirement can be satisfied in part or in whole by recent samples analyzed for and reported to the department;

(h) analyses performed more than one year before the date the permit application is submitted are not acceptable;

(i) all samples must be representative of the waste to be processed; and

(j) a table summarizing the analytical results must be provided, including the mean and range of results found.

(7) Municipal solid waste. In addition to the requirements outlined in paragraphs (1)-(5) of this subdivision, the application must include:

(i) a description of the recyclables separation and reuse program, the management of household hazardous waste (HHW), and the radioactive waste detection program, including:

(a) the methods used for removing recyclables, at the point of generation and at the facility;

(b) the method and length of storage for recyclables;

(c) the markets for recyclables;

(d) the method used to remove HHW from the waste stream, at the point of generation and at the facility;

(e) the ultimate management method for HHW collected;

(ii) a radioactive waste detection plan that includes procedures for detecting prohibited radioactive material; operation and maintenance documents for radiation detectors including investigation alarm setpoint settings and calibration methods; and response procedures to be implemented when radioactive waste is detected.

(e) Design and operating requirements.

An anaerobic digestion facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria.

Facility criteria.

(1) Stormwater must be diverted away from the operating area.

(2) All leachate must be collected and disposed in a manner approved by the department. All leachate storage facilities must be completely emptied, cleaned, and inspected every 12 months.

(3) The waste storage area, processing area, leachate storage and liquid digestate storage area must be located in tanks or on surfaces that minimize leachate release into the groundwater under the facility and the surrounding land surface, such as asphalt (except for leachate storage), concrete, or drying beds that have underdrains for leachate collection. All leachate or liquid digestate storage structures, other than tanks, must be designed in accordance with Subpart 361-2

of this Part or code NRCS NY313, as incorporated by reference in section 360.3 of this Title. The following criteria also apply.

(i) If low permeability soils are used, the liner must be a minimum of two feet of compacted soil having a maximum remolded coefficient of permeability of 1×10^{-7} centimeters per second. The soil material particles must be able to pass through a one-inch screen. The applicable criteria in Part 363 of this Title must be met.

(ii) If a geomembrane is used, the liner system must be designed and built in accordance with the applicable criteria in Part 363 of this Title.

(iii) If a surface impoundment is used for leachate storage, a minimum of two feet of freeboard must be maintained. In addition, the bottom of the liner system must be a minimum of five feet above both seasonal high groundwater elevation and the top of bedrock.

(iv) Dewatered digestate solids must be stored in a manner that will minimize run-off. All run-off generated must be contained on-site.

(4) All incoming waste must be stored in a tank or in an enclosed storage area.

(5) The facility must be operated in a manner to control the generation and migration of odors to a level that is to be expected from a typical facility operated in compliance with the regulatory criteria of this Subpart, as determined by the department.

(6) The minimum horizontal separation distance as measured from the facility to the nearest residence, place of business or public contact area (except turf farms and plant nurseries) is 200 feet for SSO, and 500 feet for other wastes. In addition:

(i) the separation distance requirement from a public contact area can be reduced for totally enclosed facilities or other mitigating landscape features, as determined by the department;

(ii) the separation distance requirement applies at the time the permit application is submitted to the department. The facility is not required to comply with the separation requirement with respect to construction of nearby residences, places of business or public contact areas subsequent to the permit application; and

(iii) the separation distance requirement for a residence does not apply to the residence of the facility landowner or operator. For a municipal permittee, land owned by any agency or department of the municipality is considered to be owned by the municipality.

(7) The operation of the facility must follow acceptable methods of anaerobic digestion that results in the biochemical decomposition of the organic material received.

(8) If the facility accepts SSO, the generator must have active collection programs designed to collect organic waste separate from other recyclables and waste materials and to remove inorganic and nonprocessible materials from the SSO generated. The facility must also have provisions for inspection and removal of nonprocessible materials received.

(9) The facility is prohibited from accepting wastes that do not positively contribute to the digestion process or the quality of the product, as determined by the department. Prohibited waste includes, but is not limited to, C&D debris, and ash from the combustion of municipal solid waste.

(10) Storage of digestate at the facility must not exceed 12 months.

(11) Nonprocessible waste and unacceptable product must be disposed at least weekly.

(12) For facilities accepting municipal solid waste:

(i) a recyclables separation program and a HHW collection program must be in place in the generating community(ies) and at the facility;

(ii) recyclables must be removed from the waste stream before digestion;

(iii) a fixed radiation detection unit must be installed and operated at a location appropriate for the monitoring of all incoming waste. In addition:

(a) the investigation alarm setpoint of the radiation detector must be set at least two times but no greater than five times background radiation levels;

(b) the concentration of radium-226 in any waste digested at the facility can not exceed 25 pCi/g;

(c) background radiation readings at the facility must be measured and recorded at least daily;

(d) field checks of the radiation detector utilizing a known radiation source must be performed and recorded at least weekly;

(e) the radiation detector must be calibrated at least annually or more often as recommended by the manufacturer, and documentation describing the calibration must be maintained at the facility; and

(f) each instance in which the radiation detector is triggered by a waste load must be documented and reported to the department within 24 hours. Recorded information must include the date the waste was received, transporter name, origin of the waste, truck number or other identifying marking, detector reading, disposition of the waste, and date of disposition.

(13) The anaerobic digestion facility must comply with the pathogen and vector attraction reduction criteria outlined in section 361-3.7 of this Subpart unless the potential for pathogen content is very low compared to biosolids, as determined by the department, or a facility that accepts sanitary waste operates as Class B pathogen reduction in conjunction with a permit for land application under Subpart 361-2 of this Part.

(14) Digestate that does not meet the criteria in this section is considered a waste and must be disposed.

(15) Digestate can be distributed for use for food crops, feed crops, and fiber crops.

(16) Digestate must not contain pollutant levels greater than those found in Table 6 of section 361-3.9 of this Subpart. The addition of materials to the process or digestate for dilution purposes is not allowed.

(17) The digestate must not contain more than two percent total gross contaminants by weight (dry weight basis).

(18) The digestate must be able to pass through a one-inch screen.

(19) If distributed to the public, the material product must be mature and must be used in a legitimate manner as a soil amendment.

(20) Digestate derived from sanitary waste or other waste with pathogen content that has not met Class A pathogen reduction and vector attraction reduction standards can only be land applied in accordance with a permit under Subpart 361-2 of this Part or composted under a permit according to section 361-3.2 of this Subpart.

(21) Use of the digestate, other than the scenario outlined in (d)(20) of this section, is subject to the following criteria:

(i) land application of the solids and/or liquid produced by the anaerobic digestion facility is exempt, provided the nutrient loading is addressed in a CNMP. Otherwise, registration under section 361-2.3(b) of this Part is required;

(ii) use of the dewatered solids for animal bedding is exempt;

(iii) use of the blended dewatered solids as a topsoil (no more than 50 percent digestate in the mix) is exempt, provided they do not cause odors when stored or used; and

(iv) composting of the dewatered solids at an exempt composting facility is also exempt provided the solids do not exceed 25 percent (by volume) of the incoming waste annually. A composting facility for the dewatered solids with an amendment or bulking agent requires registration under section 361-3.2(b)(4) of this Subpart.

(22) An information label must be affixed to the packaging or, for bulk, an information sheet, sign, or brochure must be used, containing:

(i) the name and address of the generator of the material;

(ii) the type of waste from which the material was derived; and

(iii) recommended safe uses, application rates and storage practices.

(23) For anaerobic digestion facilities that accept biosolids, septage, or other sludges, each waste source must not exceed the pollutant concentrations found in Table 6 of section 361-3.9 of this Subpart, unless the waste source is a minor (less than 10 percent of the total dry weight of sludges accepted) component of the input to the facility and a program is developed to identify

and reduce the pollutant(s) that exceed the limits for that waste source. This requirement does not apply to digestate that will be used outside New York State.

(i) If a waste input, other than a minor source, contains metals at concentrations greater than those set forth in Table 6 of section 361-3.9 of this Subpart, the waste cannot be accepted at the facility until the generator has implemented a pollutant identification and abatement program and compliance with the requirements of this paragraph has been demonstrated for waste representing a period of at least six continuous months. At least six analyses for total solids and the parameter of concern must be provided to demonstrate compliance. This requirement does not apply to products used outside New York State.

(ii) Wastewater and partially treated biosolids that are generated at one wastewater treatment facility and are further treated at another wastewater treatment facility before digestion are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for digestion are subject to this paragraph.

(24) Any material added to the process must not contain pollutants in concentrations that exceed the levels found in Table 6 of section 361-3.9 of this Subpart.

(25) Analysis of the digestate is required for the parameters in Table 1 of section 361-3.9 of this Subpart. The frequency of sampling is specified in Tables 4 and 5 of section 360-3.9 of this Subpart. All samples must be representative of the material that will be distributed. With the exception of pH and total solids, all results must be reported on a dry weight basis. Copies of the original laboratory results must be included.

(i) Each sample must be a composite of at least five grab samples.

(ii) After the digestate has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the material quality consistently meets the standards in Table 6 of section 361-3.9 of this Subpart.

(iii) For digestate derived from non-sanitary waste, the required analyses can be reduced depending on the use of the material, as determined by the department.

(26) Sufficient monitoring data must be obtained to demonstrate compliance with the pathogen and vector attraction reduction requirements, if applicable. The frequency and type of monitoring necessary, based on the methods employed to achieve pathogen and vector attraction reduction, will be determined by the department.

(27) The department can require analyses of the material for maturity before distribution. This can include, but is not limited to, organic matter reduction, plant growth impact, or oxygen consumption.

(28) Each biosolids, septage, and sludge source must be analyzed in accordance with the following:

(i) The required parameters for analysis are found in Table 1 of section 361-3.9 of this Subpart.

(ii) The minimum number of analyses required depends on the quantity of waste digested, as outlined in Table 3 of section 361-3.9 of this Subpart.

(iii) With the exception of pH and total solids, all results must be reported on a dry weight basis. After the waste has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the waste quality consistently meets the quality standards.

(iv) Wastewater and partially treated biosolids or septage that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before beneficial use are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for beneficial use are subject to this paragraph.

(29) For other wastes, analyses of the input waste can be required, as determined by the department, based on the characteristics of the waste. The extent and frequency of sampling will be determined by the department.

(30) The annual report must include:

(i) all information and analyses required by this Subpart;

(ii) the type and quantity of the waste digested, including the source of the material;

(iii) process operational information including monitoring data and significant facility operational problems and any actions taken to correct problems;

(iv) for facilities that accept biosolids, the following certification statement must be signed by an authorized representative of the facility, with an indication of the name and title of the individual signing:

“I certify, under penalty of law, that the information that will be used to determine compliance with the requirements in Subpart 361-3 of 6 NYCRR Part 361 has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that false statements made herein are punishable pursuant to section 210.45 of the penal law.”

(v) the quantity, by weight and volume, of digestate generated at the facility and the quantity of material removed from the facility; and

(vi) a description of the use of the digestate.

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6 CRR-NY 361-3.4

361-3.4 Fermentation facilities for source-separated organics.

(a) Exempt facilities.

The following facilities are exempt from this Subpart when operated in a manner that does not produce vectors, dust or odors that unreasonably impact neighbors of the facility, as determined by the department. The byproducts of fermentation must be used in a manner acceptable to the department.

(1) A fermentation facility located at a site controlled by the waste generator, in accordance with section 360.14(c)(1) of this Title.

(2) A fermentation facility that accepts no more than 1,000 pounds or one cubic yard of SSO per week, whichever is greater.

(b) Registered facilities.

Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. Each facility must comply with the criteria in section 360.19 of this Title and the operational criteria in subdivision (c) of this section.

(1) A fermentation facility that accept less than 10 tons of waste per day. The waste must not contain sanitary content. Incoming waste must be stored in a container or other enclosed device and odors must be controlled.

(c) Operating criteria for registered facilities.

A registered facility must be operated in compliance with section 360.19 of this Title and the following conditions:

(1) Material accepted cannot remain at the facility for more than 24 months.

(2) The byproducts of fermentation can be used as a soil amendment, for animal feed, or in another manner acceptable to the department. Use as animal feed requires a beneficial use determination under Part 360 of this Title.

(3) The facility must be constructed to minimize any ponding, and run-off must be effectively controlled.

(4) The facility must be at least 200 feet from the nearest surface water body, potable water well and State-regulated wetland.

(5) The facility must be at least 200 feet from the nearest residence or place of business. This exclusion does not apply to the waste generating business or any residence or place of business built after the facility began operation. The buffer area can be reduced by the department if means (such as enclosed vessels, etc.) acceptable to the department are used to reduce the potential for odor transmission.

(6) The facility must keep written records of all materials entering and leaving the facility and the corresponding dates.

(7) All waste received must be source-separated. Material received in its original packaging (for example, off-spec drinks) that has been depackaged prior to treatment is allowed.

(8) The facility must not produce odors that unreasonably impact sensitive receptors, as determined by the department. The department can require a reduction in the amount of waste accepted, or other actions, to address odor issues.

(d) Permit application requirements.

A fermentation facility that does not qualify for an exemption or a registration under this Subpart must obtain a permit and must submit an application that includes the requirements identified in this section and section 360.16 of this Title. The application must include the following:

(1) A detailed description of the source, quality, and quantity of all food scraps to be processed. The description must include the annual input and any seasonal variations in the waste type and quantity, and the appropriate quality data, as determined by the department.

(2) An operation plan that includes:

(i) a description of how the facility will comply with the operating requirements in Part 360 of this Title and subdivision (e) of this section;

(ii) a description and the capacity of the storage structures and fermenter;

(iii) a description of all pre-processing and post-processing methods and equipment used to identify and remove all nonprocessible materials and a copy of all agreements or educational activities that will be used to outline acceptable materials for the facility;

(iv) a description of the separation, processing, storage, and ultimate disposal location for nonprocessible materials;

(v) a process flow diagram of the entire process, including all major equipment and flow streams. The flow streams must indicate the quantity of material on a wet weight, dry weight, and volumetric basis;

(vi) an outline of the processing duration, including the time period from acceptance of waste to completion of treatment and to distribution of the product and byproduct;

(vii) a description of the air emission collection and control equipment, if used;

(viii) a description of the method used to control surface water run-off and to manage leachate, including the method for treatment or disposal of leachate generated. For uncovered facilities, calculations of the run-off and leachate that must be handled at the facility, based on a rainfall intensity of 1-hour duration and a 10-year return period.

(3) For facilities that will use a low-permeability soil to minimize leachate release, a construction quality assurance/construction quality control plan as outlined in Part 363 of this Title.

(4) A description of the ultimate use for the byproduct, including the approximate quantity of byproduct each type of user (such as residents, landscapers, and animal feed markets) are expected use, the frequency of distribution, the expected use of the product, and the source of this information (such as contract or phone survey);

(5) the method for removing byproduct from the facility; and

(6) a description of the proposed use or disposal of byproduct that cannot be used in the expected manner due to poor quality or change in market conditions.

(e) Design and operating requirements.

A fermentation facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria:

(1) Stormwater must diverted away from the operating area.

(2) All leachate must be collected and disposed in a manner approved by the department. All leachate storage facilities must be completely emptied, cleaned, and inspected every 12 months.

(3) The waste storage area, processing area, leachate storage and liquid byproduct storage area at the facility must be located in tanks or on surfaces that minimize leachate release into the groundwater under the facility and the surrounding land surface, such as asphalt (except for leachate storage), concrete, or drying beds that have underdrains for leachate collection. All leachate or liquid digestate storage structures, other than tanks, must be designed in accordance with Subpart 361-2 of this Part or code NRCS NY313, as incorporated by reference in section 360.3 of this Title. The following criteria also apply:

(i) If a surface impoundment is used for leachate or liquid byproduct storage, a minimum of two feet of freeboard must be maintained. In addition, the bottom of the liner system must be a minimum of five feet above both seasonal high groundwater elevation and the top of bedrock.

(ii) Byproduct must be stored in a manner that will minimize run-off. All run-off generated must be contained on-site.

(4) For uncovered processing facilities, the facility must be able to manage the quantity of leachate generated at the facility based on a rainfall intensity of 1-hour duration and a 10-year return period.

(5) All incoming waste must be stored in a tank or under cover.

(6) The facility must be operated in a manner to control the generation and migration of odors to a level that is to be expected from a typical facility operated in compliance with the regulatory criteria of this Subpart, as determined by the department.

(7) The minimum horizontal separation distance as measured from the facility to the nearest residence, place of business or public contact area (except turf farms and plant nurseries) is 200 feet. In addition:

(i) the separation distance requirement from a public contact area can be reduced for totally enclosed facilities or other mitigating landscape features, if approved by the department;

(ii) the separation distance requirement applies at the time the permit application is submitted to the department. The facility is not required to comply with the separation requirement with respect to construction of nearby residences, places of business or public contact areas subsequent to the permit application; and

(iii) the separation distance requirement for a residence does not apply to the residence of the facility landowner or operator. For a municipal permittee, land owned by any agency or department of the municipality is considered to be owned by the municipality.

(8) The facility can only accept food scraps from a generator that has a collection program designed to collect organic waste separate from other recyclables and waste materials and to remove inorganic and nonprocessible materials from the food scraps generated. This does not prohibit the facility from accepting packaged products if depackaging will occur at the facility. The facility must also have provisions for inspection and removal of nonprocessible materials received.

(9) Storage of the byproduct at the facility must not exceed 24 months.

(10) Nonprocessible waste and unacceptable product must be disposed at least weekly.

(11) A byproduct that does not meet the criteria in this section is considered a waste and must be disposed.

(12) The byproduct can be distributed for use for food crops, feed crops, and fiber crops.

(13) The byproduct must not contain pollutant levels greater than those found in Table 6 of section 361-3.9 of this Subpart.

(14) The byproduct must not contain more than two percent total gross contaminants by weight (dry weight basis).

(15) The byproduct must be able to pass through a one-inch screen, except for wood particles derived from the use of wood chips as a bulking agent or amendment.

(16) If distributed to the public, the byproduct must be mature and must be used in a legitimate manner as a soil amendment.

(17) Use of the byproduct as a soil amendment or animal feed is acceptable.

(18) Use of the primary product (alcohol, etc.) requires an approved beneficial use determination under Part 360 of this Title.

(19) The department can require annual analyses of the byproduct for maturity before distribution. This can include, but is not limited to, potential for reheating, organic matter reduction, plant growth impact, or oxygen consumption.

(20) The annual report must include:

(i) all information and analyses required by this Subpart;

(ii) the type and quantity of the food scraps being processed, including the source of the material;

(iii) process operational information including monitoring data and significant facility operational problems and any actions taken to correct any problems; and

(iv) the quantity, by weight and volume, of byproduct generated at the facility and the quantity of byproduct removed from the facility;

(v) a description of the byproduct distribution and disposal methods.

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361-3.5 Animal feed production facilities.

(a) Exempt facilities.

The following facilities are exempt from this Subpart when operated in a manner that does not produce vectors, dust or odors that unreasonably impact neighbors of the facility, as determined by the department. All incoming food scraps must be stored in an enclosed area.

(1) An animal feed production facility located at a site controlled by the waste generator, in accordance with section 360.14(b)(10) of this Title.

(2) An animal feed production facility that only accepts bread and other similar grain products (spent brewery grains, etc.).

(3) An animal feed production facility that accepts no more than 1,000 pounds or one cubic yard of food scraps per week, whichever is greater.

(b) Registered facilities.

Facilities of the following types are subject to the registration provisions of section 360.15 of this Title unless otherwise exempt. Each facility must comply with the criteria in section 360.19 of this Title.

(1) Animal feed production facilities, provided:

(i) all incoming food scraps are stored in an enclosed area;

(ii) all incoming food scraps are processed within seven calendar days of acceptance;

(iii) leachate is managed in a manner acceptable to the department;

(iv) odors are controlled; and

(v) unless only grain products are accepted, a beneficial use determination is obtained for the animal feed product in accordance with section 360.12 of this Title.

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361-3.6 Other organics recycling facilities.

(a) Exempt facilities.

The following facilities are exempt from this Subpart when operated in a manner that does not produce vectors, dust or odors that unreasonably impact neighbors of the facility, as determined by the department. The product generated must be used in a beneficial manner that is protective of human health and the environment.

(1) A facility located at a site controlled by the waste generator, in accordance with section 360.14(c)(1) of this Title.

(2) A facility that accepts only animal manure and bedding.

(3) A facility that accepts no more than 1,000 pounds or one cubic yard, whichever is greater, of SSO per week.

(4) A facility located on a CAFO provided that the waste accepted is limited to manure, food processing waste, fats, oil, grease, and other organic wastes without sanitary content. The non-manure waste received must not exceed 50 percent, by volume, of waste managed on an annual basis. Facilities that are not owned by the farm must be covered by the farm’s CAFO approvals.

(b) Registered facilities.

Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. Each facility must comply with the criteria in section 360.19 of this Title and the operational criteria in subdivision (c) of this section.

(1) A facility that accepts less than ten tons of SSO per day. The waste must not contain sanitary content. Incoming waste must be stored in a vessel or other enclosed device and odors must be controlled.

(c) Operating criteria for registered facilities.

A registered facility must be operated in compliance with section 360.19 of this Title and the following conditions:

(1) Material accepted can not remain at the facility for more than 24 months.

(2) The facility must be constructed to minimize any ponding, and run-off must be effectively controlled.

(3) The facility must be at least 200 feet from the nearest surface water body, potable water well and state-regulated wetland.

(4) SSO accepted must be stored in a vessel or in an enclosed area.

(5) The facility must be at least 200 feet from the nearest residence or place of business. This exclusion does not apply to the waste generating business or any residence or place of business built after the facility began operation. The buffer area can be reduced by the department if means (such as enclosed vessels, etc.) acceptable to the department are used to reduce the potential for odor transmission.

(6) The facility must keep written records of all materials entering and leaving the facility and the corresponding dates.

(7) All waste received must be source-separated. Material received in its original packaging (for example, off-spec drinks) that will be depackaged prior to digestion are allowed.

(8) The product must be used in a manner that does not cause negative animal health or environmental impacts. If used as a soil conditioner, agronomic rates must be followed.

(9) The facility must not produce odors that unreasonably impact sensitive receptors, as determined by the department. The department can require a reduction in the amount of waste accepted, or other actions, to address odor issues.

(d) Permit application requirements.

A facility that does not qualify for an exemption or a registration under this Subpart must obtain a permit and must submit an application that includes the requirements identified in this section and section 360.16 of this Title. The application must include the following:

(1) A detailed description of the source, quality, and quantity of all waste to be processed, including the source and quality. The description must include the annual input and any seasonal variations in the waste type and quantity, and the appropriate quality data, as determined by the department. If SSO is accepted:

(i) A detailed description of the source-separation program at the point of generation, including how unacceptable wastes are separated from the SSO stream. For residential SSO, this must include a copy of all educational literature or other information provided to residents, and a

description of the container(s) that will be used. For commercial and institutional SSO, this must include a copy of any agreements or information concerning what can be accepted from the generator and the collection containers that will be used.

(2) An operation plan that includes:

(i) a description of how the facility will comply with the operating requirements in Part 360 of this Title and subdivision (e) of this section;

(ii) a description and the capacity of the storage structures and processing equipment;

(iii) a description of all preprocessing and post-processing methods and equipment used to identify and remove all nonprocessible materials and a copy of all agreements or educational activities that will be used to outline acceptable materials for the facility;

(iv) a description of the storage and disposal location for nonprocessible materials;

(v) a process flow diagram of the entire process, including all major equipment and flow streams. The flow streams must indicate the quantity of material on a wet weight, dry weight, and volumetric basis;

(vi) an outline of the processing duration, including the time period from acceptance of waste to completion;

(vii) a description of the air emission collection and control equipment, if used; and

(viii) a description of the method used to control surface water run-off and to manage leachate, including the method for treatment or disposal of leachate generated. For uncovered facilities, calculations of the run-off and leachate that must be handled at the facility, based on a rainfall intensity of 1-hour duration and a 10-year return period.

(3) An odor control and response plan. The plan must describe how odors will be monitored and how any odor problems will be addressed.

(4) A product use plan that includes:

(i) a description of the use(s) for the product, including the approximate quantity of each type of user, the frequency of distribution, the expected use of the material, and the source of this information (such as contract or phone survey);

(ii) the method for removing product from the facility;

(iii) a description of the proposed management of product that cannot be used in the expected manner due to poor quality or change in market conditions; and

(iv) a copy of the label or other information source for the product, if applicable.

(5) A detailed description of the proposed processes to reduce pathogenic organism content and to reduce vector attraction, if required, including:

(i) the methods that will be used for pathogen reduction and vector attraction reduction; and

(ii) the monitoring and data gathering that will be used to demonstrate compliance including type, location, and frequency.

(6) Biosolids, septage, and other sludges. In addition to the requirements outlined in section 361-3.3(d)(1)-(5) of this Subpart, the application must include the following information. Wastewater and partially treated biosolids or septage that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before processing are not considered separate waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for processing are subject to this paragraph.

(i) A description of each proposed source of waste including the name of the generator, the annual quantity of waste produced, the amount of waste to be processed, and any seasonal variations in the quantity or quality during the year. Also, a description of the Federal or State pretreatment program, if required; and

(ii) A description of the quality of the waste, including analytical results, as outlined below:

(a) the required parameters for analysis are in Table 1 of section 361-3.9 of this Subpart;

(b) the minimum number of analyses for each waste source that must be submitted with the application is dependent upon the amount of waste that will be processed annually, outlined in Table 2 in section 361-3.9 of this Subpart;

(c) for each analysis, the sampling date, location, and protocol used to obtain representative samples must be indicated;

(d) a minimum of six months of waste production must be represented by the analytical results submitted. With the exception of pH and total solids, all results must be reported on a dry weight basis;

(e) analyses for other pollutants can be required by the department, on a case-specific basis, based on the characteristics of the waste and information from the pretreatment program and other sources;

(f) each analysis must be performed by a laboratory certified by the Department of Health for that type of analysis, using methods acceptable to the department. Copies of the original laboratory results must be included with the permit application;

(g) the analysis requirement can be satisfied in part or in whole by recent samples analyzed for and reported to the department;

(h) analyses performed more than one year before the date the permit application is submitted are not acceptable;

(i) all samples must be representative of the waste to be processed; and

(j) a table summarizing the analytical results must be provided, including the mean and range of results found.

(7) Municipal solid waste. In addition to the requirements outlined in paragraphs (1)-(5) of this section, the application must include:

(i) a description of the recyclables separation and reuse program, the management of household hazardous waste (HHW), and the radioactive waste detection program, including:

(a) the methods used for removing recyclables, at the point of generation and at the facility;

(b) the method and length of storage for recyclables;

(c) the markets for recyclables;

(d) the method used to remove HHW from the waste stream, at the point of generation and at the facility;

(e) the ultimate management method for HHW collected; and

(ii) a radioactive waste detection plan that includes procedures for detecting prohibited radioactive material; operation and maintenance documents for radiation detectors including investigation alarm setpoint settings and calibration methods; and response procedures to be implemented when radioactive waste is detected.

(e) Design and operating requirements.

A facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria:

(1) Stormwater must be diverted away from the operating area.

(2) All leachate must be collected and disposed in a manner approved by the department. All leachate storage facilities must be completely emptied, cleaned, and inspected every 12 months.

(3) The waste storage area, processing area, leachate storage and liquid product storage area at the facility must be located in tanks or on surfaces that minimize leachate release into the groundwater under the facility and the surrounding land surface, such as asphalt (except for leachate storage), concrete, or drying beds that have underdrains for leachate collection. All leachate or liquid digestate storage structures, other than tanks, must be designed in accordance with Subpart 361-2 of this Part or code NRCS NY313, as incorporated by reference in section 360.3 of this Title. The following criteria also apply:

(i) If low permeability soils are used, the liner must be a minimum of two feet of compacted soil having a maximum remolded coefficient of permeability of 1×10^{-7} centimeters per second. The soil material particles must be able to pass through a one-inch screen. The applicable criteria in Part 363 of this Title must be met.

(ii) If a geomembrane is used, the liner system must be designed and built in accordance with the applicable criteria in Part 363 of this Title.

(iii) If a surface impoundment is used for leachate storage, a minimum of two feet of freeboard must be maintained. In addition, the bottom of the liner system must be a minimum of five feet above both seasonal high groundwater elevation and the top of bedrock.

(4) Product must be stored in a manner that will minimize run-off. All run-off generated must be contained on-site.

(5) For uncovered processing facilities, the facility must be able to manage the quantity of leachate generated at the facility based on a rainfall intensity of 1-hour duration and a 10-year return period.

(6) All incoming waste must be stored in a tank or under cover.

(7) The facility must be operated in a manner to control the generation and migration of odors to a level that is to be expected from a typical facility operated in compliance with the regulatory criteria of this Subpart, as determined by the department.

(8) The minimum horizontal separation distance as measured from the facility to the nearest residence, place of business or public contact area (except turf farms and plant nurseries) is 200 feet for SSO, and 500 feet for other wastes. In addition:

(i) the separation distance requirement from a public contact area can be reduced for totally enclosed facilities or other mitigating landscape features, as determined by the department;

(ii) the separation distance requirement applies at the time the permit application is submitted to the department. The facility is not required to comply with the separation requirement with respect to construction of nearby residences, places of business or public contact areas subsequent to the permit application; and

(iii) the separation distance requirement for a residence does not apply to the residence of the facility landowner or operator. For a municipal permittee, land owned by any agency or department of the municipality is considered to be owned by the municipality.

(9) If the facility accepts SSO, the generator must have active collection programs designed to collect organic waste separate from other recyclables and waste materials and to remove inorganic and nonprocessible materials from the SSO generated. The facility must also have provisions for inspection and removal of nonprocessible materials received.

(10) The facility is prohibited from accepting wastes that do not positively contribute to the process or the quality of the product, as determined by the department. Prohibited waste includes, but is not limited to, C&D debris and ash from the combustion of municipal solid waste.

(11) Storage of product at the facility must not exceed 12 months.

(12) Nonprocessible waste and unacceptable product must be disposed at least weekly.

(13) For facilities accepting municipal solid waste:

(i) a recyclables separation program and a HHW collection program must be in place in the generating community(ies) and at the facility;

(ii) recyclables must be removed from the waste stream before processing;

(iii) a fixed radiation detection unit must be installed and operated at a location appropriate for the monitoring of all incoming waste. In addition:

(a) the investigation alarm setpoint of the radiation detector must be set at least two times but no greater than five times background radiation levels;

(b) the concentration of radium-226 in any waste recycled at the facility cannot exceed 25 pCi/g;

(c) background radiation readings at the facility must be measured and recorded at least daily;

(d) field checks of the radiation detector utilizing a known radiation source must be performed and recorded at least weekly;

(e) the radiation detector must be calibrated at least annually or more often as recommended by the manufacturer, and documentation describing the calibration must be maintained at the facility; and

(f) each instance in which the radiation detector is triggered by a waste load must be documented and reported to the department within 24 hours. Recorded information must include the date the waste was received, transporter name, origin of the waste, truck number or other identifying marking, detector reading, disposition of the waste, and date of disposition.

(14) The facility must comply with the pathogen and vector attraction reduction criteria outlined in section 361-3.7 of this Subpart unless the potential for pathogen content is very low, compared to biosolids, as determined by the department.

(15) Product that does not meet the criteria in this section is considered a waste and must be disposed.

(16) Product can be distributed for use for food crops, feed crops, and fiber crops.

(17) Product must not contain pollutant levels greater than those found in Table 6 of section 361-3.9 of this Subpart. The addition of materials to the process or digestate for dilution purposes is not allowed.

(18) The product must not contain more than two percent total gross contaminants by weight (dry weight basis).

(19) The product must be able to pass through a one-inch screen.

(20) If distributed to the public, the product must be mature and must be used in a legitimate manner as a soil amendment.

(21) Use of the product must be acceptable to the department and will be dependent on the maturity and other characteristics of the product.

(22) An information label must be affixed to the packaging or, for bulk, an information sheet, sign, or brochure must be available to the user, containing the following information:

(i) the name and address of the generator of the material;

(ii) the type of waste from which the material was derived; and

(iii) recommended safe uses, application rates and storage practices.

(23) For facilities that accept biosolids, septage, or other sludges, each waste source must not exceed the pollutant concentrations found in Table 6 of section 361-3.9 of this Subpart, unless the waste source is a minor (less than 10 percent of the total dry weight of sludges accepted) component of the input to the facility and a program is developed to identify and reduce the pollutant(s) that exceed the limits for that waste source. This requirement does not apply to product that will be used outside New York State.

(i) If a waste input, other than a minor source, contains metals at concentrations greater than those set forth in Table 6 of section 361-3.9 of this Subpart, the waste cannot be accepted at the facility until the generator has implemented a pollutant identification and abatement program and compliance with the requirements of this paragraph has been demonstrated for waste representing a period of at least six continuous months. At least six analyses for total solids and the parameter of concern must be provided to demonstrate compliance. This requirement does not apply to products used outside New York State.

(ii) Wastewater and partially treated biosolids that are generated at one wastewater treatment facility and are further treated at another wastewater treatment facility before digestion are not considered waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for digestion are subject to this paragraph.

(24) Any material added to the process must not contain pollutants in concentrations that exceed the levels found in Table 6 of section 361-3.9 of this Subpart.

(25) Analysis of the product is required for the parameters in Table 1 of section 361-3.9 of this Subpart. The frequency of sampling is specified in Tables 4 and 5 of section 360-3.9 of this Subpart. All samples must be representative of the product that will be distributed. With the exception of pH and total solids, all results must be reported on a dry weight basis. Copies of the original laboratory results must be included.

(i) Each sample must be a composite of at least five grab samples.

(ii) After the product has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the product

quality consistently meets the product quality standards in Table 6 of section 361-3.9 of this Subpart.

(iii) For product derived from non-sanitary waste, the required analyses can be reduced depending on the use of the material, as determined by the department.

(26) Sufficient monitoring data must be obtained to demonstrate compliance with the pathogen and vector attraction reduction requirements, if applicable. The frequency and type of monitoring necessary, based on the methods employed to achieve pathogen and vector attraction reduction, must be approved by the department. At a minimum, temperature monitoring must occur on a daily basis in the coldest part of the waste mass.

(27) The department can require analysis of the product for maturity before distribution. This can include, but is not limited to, organic matter reduction, plant growth impact, or oxygen consumption.

(28) Each biosolids, septage, and sludge source must be analyzed in accordance with the following:

(i) The required parameters for analysis are found in Table 1 of section 361-3.9 of this Subpart.

(ii) The minimum number of analyses required depends on the quantity of waste digested, as outlined in Table 3 of section 361-3.9 of this Subpart.

(iii) With the exception of pH and total solids, all results must be reported on a dry weight basis. After the waste has been monitored for two years at the frequency outlined in this paragraph, the department can reduce the annual number of analyses required if the waste quality consistently meets the quality standards.

(iv) Wastewater and partially treated biosolids or septage that are generated at one wastewater treatment facility and treated at another wastewater treatment facility before beneficial use are not considered waste sources subject to the criteria in this paragraph. The resultant biosolids or sludge generated for beneficial use are subject to this paragraph.

(29) For other wastes, analyses of the input waste can be required, as determined by the department, based on the characteristics of the waste. The extent and frequency of sampling will be determined by the department on a case-specific basis.

(30) The annual report must include:

(i) all information and analyses required by this Subpart;

(ii) the type and quantity of the waste processed, including the source of the material;

(iii) process operational information including monitoring data and significant facility operational problems and any actions taken to correct problems;

(iv) for facilities that accept biosolids, the following certification statement must be signed by an authorized representative of the facility, with an indication of the name and title of the individual signing:

“I certify, under penalty of law, that the information that will be used to determine compliance with the requirements in Subpart 361-3 of 6 NYCRR Part 361 has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that false statements made herein are punishable pursuant to section 210.45 of the penal law.”

(v) the quantity, by weight and volume, of product generated at the facility and the quantity of material removed from the facility; and

(vi) a description of the use of the product.

6 CRR-NY 361-3.6

6 CRR-NY 361-3.7

6 CRR-NY 361-3.7

361-3.7 Pathogen and vector attraction reduction criteria.

(a) Pathogen reduction.

(1) One of the following Class A alternatives must be used to reduce pathogen content before the material leaves the facility. Alternative 2 is not applicable for composting and alternative 4 can only be used if the process cannot produce operational data that could be used to meet another pathogen reduction (PR) alternative.

(i) Class A - alternative 1. At the time of product use or disposal, either the density of fecal coliform in the product is less than 1,000 most probable number per gram of total solids (dry weight basis) or the density of salmonella sp. bacteria in the product is less than 3 most probable number per 4 grams of total solids (dry weight basis). In addition, the waste must be treated by one of the following processes:

(a) Composting. Using the windrow composting method, the waste is maintained under aerobic conditions during the compost process. A minimum of 5 turnings is required during a period of 15 consecutive days when the temperature of the waste is not less than 55° C. Using the aerated static pile composting method or the within-vessel composting method, the temperature of the waste is maintained at 55° C or higher for at least 3 consecutive days.

(b) Heat drying. Waste is dried by direct or indirect contact with hot gases to reduce the moisture content of the waste to 10 percent or lower. One of the following must be achieved:

(1) either the temperature of the waste particles must exceed 80° C; or

(2) the wet bulb temperature of the gas in contact with the waste as it leaves the dryer must exceed 80° C.

(c) Heat treatment. Liquid waste is heated to a temperature of 180° C or higher for at least 30 minutes.

(d) Thermophilic aerobic digestion. Liquid waste is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the waste is at least 10 days at 55° C or greater.

(e) Beta ray irradiation. Waste is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20° C).

(f) Gamma ray irradiation. Waste is irradiated with gamma rays from certain isotopes, such as cobalt 60 and cesium 137, at dosages of at least 1.0 megarad at room temperature (approximately 20° C).

(g) Pasteurization. The temperature of the waste is maintained at 70° C or higher for 30 minutes or longer.

(h) Other methods. Other methods or operating conditions can be approved by the department if the department determines that pathogens are reduced to an extent equivalent to the reduction achieved by the above methods.

(ii) Class A - alternative 2. Treatment by thermophilic aerobic or anaerobic digestion. At the time of product use or disposal, either the density of fecal coliform in the product must be less than 1,000 most probable number per gram of total solids (dry weight basis) or the density of salmonella sp. bacteria in the product must be less than 3 most probable number per 4 grams of total solids (dry weight basis). In addition, the temperature of the waste must be maintained at a specific value for a period of time, as follows:

(a) When the percent solids of the waste is 7 percent or higher, the temperature of the waste must be 50° C or higher, the time period must be 20 minutes or longer, and the temperature and time period must be determined using the following equation, except when small particles of waste are heated by either warmed gases or an immiscible liquid.

$$D = 131{,}700{,}000/10^{0.1400\ t}$$

Where,

D = time in days.

t = temperature in degrees Celsius.

(b) When the percent solids of the waste is 7 percent or higher and small particles of waste are heated by either warmed gases or an immiscible liquid, the temperature and time period must be determined using the equation in clause (*a*) of this subparagraph. The temperature of the waste must be 50° C or greater and the time period must be 15 seconds or longer.

(c) When the percent solids of the waste is less than 7 percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period must be determined using the equation in clause (*a*) of this subparagraph.

(d) When the percent solids of the waste is less than 7 percent, the temperature of the waste is 50° C or higher, and the time period is 30 minutes or longer, the temperature and time period must be determined using the following equation:

$$D = 50{,}070{,}000/10^{0.1400\ t}$$

Where,

D = time in days.

t = temperature in degrees Celsius.

(iii) Class A - alternative 3. At the time of product use or disposal, either the density of fecal coliform in the product must be less than 1,000 most probable number per gram of total solids (dry weight basis) or the density of salmonella sp. bacteria in the product must be less than 3 most probable number per 4 grams of total solids (dry weight basis). In addition, the following conditions must be satisfied:

(a) The pH of the waste must be raised to above 12 and remain above 12 for at least 72 hours.

(b) The temperature of the waste must remain above 52° C for 12 hours or longer during the period that the pH of the waste is above 12.

(c) At the end of the 72-hour period during which the pH of the waste is above 12, the waste must be air dried to achieve a percent solids in the waste greater than 50 percent.

(iv) Class A - alternative 4. At the time of product use or disposal, either the density of fecal coliform in the product must be less than 1,000 most probable number per gram of total solids (dry weight basis) or the density of salmonella sp. bacteria in the product must be less than 3 most probable number per 4 grams of total solids (dry weight basis). In addition, the following conditions must be satisfied:

(a) The density of enteric viruses in the product must be less than 1 plaque-forming unit per 4 grams of total solids (dry weight basis).

(b) The density of viable helminth ova in the product must be less than 1 per 4 grams of total solids (dry weight basis).

(b) Vector attraction reduction.

(1) One of the following vector attraction reduction methods must be achieved before the material leaves the facility. Vector attraction reduction methods, except the methods found in section 361-3.5(b)(2)(vi)-(viii) of this Subpart, must be met either after meeting the pathogen reduction requirements or at the same time the pathogen reduction requirements are met.

(i) The mass of volatile solids in the waste must be reduced by a minimum of 38 percent.

(ii) If the volatile solids reduction requirement cannot be met for an anaerobically digested waste, vector attraction reduction can be demonstrated by anaerobically digesting a portion of the previously digested waste in a laboratory bench-scale unit for 40 additional days at a temperature between 30° and 37° C. Vector attraction reduction is achieved if the bench-scale digestion produces less than a 17 percent reduction in volatile solids content.

(iii) If the volatile solids reduction requirement cannot be met for an aerobically digested waste, vector attraction reduction can be demonstrated by aerobically digesting a portion of the previously digested waste that has a percent solids of 2 percent or less in a laboratory bench-scale unit for an additional 30 days at 20° C. Vector attraction reduction is achieved if the bench-scale digestion produces less than a 15 percent reduction in volatile solids content.

(iv) The specific oxygen uptake rate (SOUR) for waste treated in an aerobic process must be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° C.

(v) Waste must be treated by an aerobic process for a minimum of 14 days. Throughout that treatment time, the temperature of the waste must remain higher than 40° C and the average temperature of the waste must be higher than 45° C.

(vi) The pH of the waste must be raised to 12 standard units or higher by alkali addition and, without the addition of more alkali, must remain at 12 or higher for 2 hours, and then must remain at 11.5 or higher for an additional 22 hours.

(vii) For waste that does not contain untreated solids generated in a primary wastewater treatment process, the percent solids of the waste must be equal to or greater than 75 percent, before mixing with other materials, until use.

(viii) For waste that contains untreated solids generated in a primary wastewater treatment process, the percent solids of the waste must be equal to or greater than 90 percent, before mixing with other materials, until use.

6 CRR-NY 361-3.7

6 CRR-NY 361-3.8

6 CRR-NY 361-3.8

361-3.8 Biosolids and other similar products generated outside New York State.

A product derived from biosolids, septage, or municipal solid waste, which is generated outside New York State, and which is offered for sale, sold, or given away within New York State, is not waste for purposes of section 360.12 of this Title if the following conditions are satisfied:

(a) Request for product distribution.

Before distribution of the product in New York State, the distributor of the organics-derived product must submit a written request to the department to distribute an organics-derived product and corresponding written confirmation must be obtained from the department prior to distribution. The request must be submitted to the department's central office and contain, at a minimum, the following:

(1) a description of the processing facility and all waste sources;

(2) a copy of the permits or other approvals for the processing facility and the appropriate excerpts from applicable rules and regulations from the applicable authority where the product is generated;

(3) a minimum of three analyses of the product for the parameters listed in Table 1 of section 361-3.9 of this Subpart;

(4) a description of the methods to reduce pathogens and vector attraction, with appropriate monitoring data, as determined by the department;

(5) a description of how and where the product will be distributed and used in New York State and the quantity of product that will be distributed or used in New York State;

(6) for products used in bulk on a farm, a description of any storage facilities for product that are located in New York State, including location, quantity stored, storage facility construction and duration of storage; and

(7) a copy of the label or printed literature for the product.

(b) Pathogen and vector attraction reduction.

The waste must be treated by one of the pathogen and vector attraction reduction options outlined in section 361-3.7 of this Subpart.

(c) Contaminant limits and product use.

The product quality and product use must comply with the criteria found in subdivision 361-3.2(e) of this Subpart.

(d) Monitoring, recordkeeping, and reporting.

(1) A minimum of one analysis of the product is required for each 1,000 cubic yards of product distributed in New York State. The parameters and associated requirements are found in Table 1 of section 361-3.9 of this Subpart.

(2) An annual report must be submitted to the department's central office by March 1st of each year. The report must include:

(i) all information and analytical results required by this section;

(ii) the quantity of product distributed in New York State;

(iii) a description of the product storage and product use; and

(iv) an outline of any problems encountered, complaints received, actions taken to mitigate any problems, and the outcomes.

6 CRR-NY 361-3.8

6 CRR-NY 361-3.9

6 CRR-NY 361-3.9

361-3.9 Tables.

Table 1

Parameters for Analysis

Total Kjeldahl Nitrogen	Arsenic (As)	Products must also analyze for:
Ammonia	Cadmium (Cd)	Fecal coliform or Salmonella sp. bacteria
Nitrate	Chromium (total) (Cr)	
Total Phosphorous	Copper (Cu)	
Total Potassium	Lead (Pb)	
pH	Mercury (Hg)	
Total Solids	Molybdenum (Mo)	
Total Volatile Solids	Nickel (Ni)	
	Selenium (Se)	
	Zinc (Zn)	

Table 2

Analyses Required with Permit Application

Biosolids/Sludge Used (dry tons/year)	Minimum Number of Analyses

>15,000	12
>2,500 to 15,000	6
200 to 2,500	3
25 to 199	2
<25	1

Table 3

Analyses Required During Operation - Biosolids

Biosolids Used (dry tons/year)	Minimum Number of Analyses	Reduced Frequency for Low Pollutants*
>15,000	24	12
>2,500 to 15,000	12	6
200 to 2,500	6	4
25 to 199	4	2
<25	2	1

*Applies to facilities where two consecutive years of biosolids pollutant levels are all at or below one-half of the limits found in Table 6 if approved by the department.

Table 4

Annual Product Testing Frequency - Biosolids/Sludge/MSW

Average Product Generated (cubic yards per day)	Number of Analyses
>50	52
5-50	12
<5	6

Table 5

Annual Product Testing Frequency - SSO

Average Product Generated (cubic yards per day)	Number of Analyses
>50	12
5-50	4
<5	2

Table 6

Pollutant Limits

Parameter	Maximum Concentration mg/kg, dry weight
Arsenic (As)	41
Cadmium (Cd)	10
Chromium (Cr-total)	1,000
Copper (Cu)	1,500
Lead (Pb)	300
Mercury (Hg)	10
Molybdenum (Mo)	40
Nickel (Ni)	200
Selenium (Se)	100
Zinc (Zn)	2,500

6 CRR-NY 361-3.9

6 CRR-NY IV B 361 361-4 Notes

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER IV. QUALITY SERVICES

SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-4. MULCH PROCESSING FACILITIES

6 CRR-NY IV B 361 361-4 Notes

6 CRR-NY IV B 361 361-4 Notes

6 CRR-NY 361-4.1

6 CRR-NY 361-4.1

361-4.1 Applicability.

This Subpart applies to facilities that process yard trimmings (other than grass clippings), tree debris, and wood debris into mulch. This Subpart does not govern the processing of construction and demolition (C&D) debris into mulch. The requirements contained in Part 360 of this Title also apply to this Subpart. This Subpart does not apply to:

(a) a facility that composts yard trimmings. That type of facility, or portion thereof, is regulated under Subpart 361-3 of this Part;

(b) a facility for combustion or thermal treatment. That type of facility, or portion of one, is regulated under Subpart 362-1 of this Title; and

(c) a facility that processes wood that is C&D debris. That type of facility, or portion thereof, is regulated under Subpart 361-5 of this Part.

6 CRR-NY 361-4.1

6 CRR-NY 361-4.2

6 CRR-NY 361-4.2

361-4.2 Exempt facilities.

In addition to the exemptions provided in section 360.14 of this Title, the following facilities are exempt from this Subpart:

(a) A tree debris disposal facility as specified in section 363-2.1(g) of this Title.

(b) A facility with less than 10,000 cubic yards total, including storage of incoming material and processed material, provided the piles adhere to the size restrictions found in section 361-4.3(a)(4) and (5) of this Subpart and 10 feet is maintained between piles.

(c) A facility used for the storage and processing of yard trimmings or wood debris that is considered storm debris from an area designated as a disaster area by the Governor of New York State, provided criteria specified by the department are followed.

(d) A facility used for the management of materials subject to Emerald Ash Borer (EAB) or other disease organism regulations and other quarantine restrictions required by the department specified within that area.

6 CRR-NY 361-4.2

6 CRR-NY 361-4.3

6 CRR-NY 361-4.3

361-4.3 Registered facilities.

Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. In addition to the criteria in Part 360 of this Title, each facility must comply with the operating requirements specified in this section.

(a) A facility with more than 10,000 cubic yards of material but less than 25,000 cubic yards of material, including storage of incoming material and processed material, provided the following design and operating criteria are followed.

(1) For wood debris, the facility has a program to preclude the acceptance of contaminated wood and to inspect and remove any contaminated wood that arrives at the site. If the facility accepts pallets, the facility has equipment to remove nails and operate the equipment whenever pallets are being processed.

(2) The facility does not accept C&D debris.

(3) Material does not remain on-site unprocessed for more than 12 months.

(4) All piles of material that contain unprocessed material or material that has gone through a primary rough grind (4 to 6 inch pieces) do not exceed 25 feet high and 30 feet wide at the base and piles are triangular in cross section, except in Nassau and Suffolk County pile sizes do not exceed 15 feet high and 30 feet wide at the base. In all cases, primary grind material is not stored for more than 180 days.

(5) All piles of double or finely ground mulch do not exceed 15 feet high and 30 feet wide at the base and piles are triangular in cross section. Double or finely ground mulch is not stored for more than 90 days.

(6) For all piles of double or finely ground mulch, the temperature in the piles is monitored at least once per week, twice per month for other piles. Multiple points in the piles are monitored with emphasis placed on areas that appear to be the hottest such as vents and areas of fungal growth. Probing is done cautiously to avoid introducing air into a hot spot and causing a flash fire. If the temperature is above 140° F or a portion of the pile shows an increasing trend in temperature, the affected material is immediately broken down and cooled.

(7) All piles of material, both unprocessed and processed, are separated by at least 10 feet.

(8) Piles of processed material must be restacked as necessary to avoid temperatures above 140° F, piles are restacked at least once in a 180 day period.

(9) Restacking of piles must occur when winds are blowing away from sensitive receptors.

(10) Piles of processed material are piled loosely and not compacted in any manner.

(11) If a fire occurs, the affected portion of the pile is dismantled and watered to douse the fire or managed in a manner recommended by a local fire department.

(12) Standing water on the storage area is minimized.

(13) For the purposes of Part 360 and this Part, precipitation, surface water, and groundwater that has come in contact with wood debris, tree debris, and yard trimmings, both incoming and processed, is not considered leachate, but must be managed in a manner acceptable to the department. The facility must have a written run-on and run-off plan, submitted with the registration request, that is acceptable to the department that outlines the methods that will be used to prevent run-on from entering and run-off from leaving the site and to minimize the movement of organic matter into the soil at the site.

(14) The following buffer areas from processing and storage are followed:

Feature	Minimum horizontal separation distance (in feet)
Property line	25
Residence*	200
Potable water well	200
Surface water and State regulated wetland	200

*Excludes owner’s or operator’s residence or a residence that existed prior to the effective date of this Subpart.

6 CRR-NY 361-4.3

6 CRR-NY 361-4.4

6 CRR-NY 361-4.4

361-4.4 Permit application requirements.

A mulch processing facility that is not an exempt facility or subject to the registration provisions of section 361-4.3 of this Title must obtain a permit, and must submit an application that demonstrates compliance with the requirements identified in section 360.16 of this Title and a description of how the facility will comply with the operating requirements in Part 360 of this Title and sections 361-4.5 and 4.6 of this Subpart.

6 CRR-NY 361-4.4

6 CRR-NY 361-4.5

6 CRR-NY 361-4.5

361-4.5 Design and operating requirements.

A mulch processing facility required to obtain a permit must, in addition to the requirements identified in section 360.19 of this Title, design and operate the facility in compliance with the design and operating requirements specified in section 361-4.3 of this Subpart and the recordkeeping and reporting requirements of section 361-4.3 of this Subpart. Also, the facility must have stormwater and run-off controls that minimize the potential for organic matter to reach groundwater and surface water resources.

6 CRR-NY 361-4.5

6 CRR-NY 361-4.6

6 CRR-NY 361-4.6

361-4.6 Recordkeeping and reporting requirements.

The following criteria apply to both registered and permitted facilities:

(a) The facility must keep records as required by section 360.19(k) of this Title.

(b) The facility must submit an annual report as required by section 360.19(k)(3) of this Title.

6 CRR-NY 361-4.6

6 CRR-NY IV B 361 361-5 Notes

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OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER IV. QUALITY SERVICES

SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-5. CONSTRUCTION AND DEMOLITION DEBRIS HANDLING AND RECOVERY FACILITIES

6 CRR-NY IV B 361 361-5 Notes

6 CRR-NY IV B 361 361-5 Notes

6 CRR-NY 361-5.1

6 CRR-NY 361-5.1

361-5.1 Applicability.

This Subpart applies to facilities that process and/or store construction and demolition (C&D) debris in order to extract recyclable or reusable materials. The requirements contained in Part 360 of this Title also apply to this Subpart.

6 CRR-NY 361-5.1

6 CRR-NY 361-5.2

6 CRR-NY 361-5.2

361-5.2 Registered facilities.

(a) Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. In addition to the criteria in Part 360 of this Title, each facility must comply with the applicable requirements of this Subpart.

(1) Facilities that receive less than 500 tons per day based on a weekly average of the following recognizable, uncontaminated wastes: concrete and other masonry materials (including steel or fiberglass reinforcing embedded in concrete), brick, and rock.

(2) Facilities that receive less than 500 tons per day based on a weekly average of uncontaminated asphalt pavement or asphalt millings.

(3) Facilities that receive less than 500 tons per day based on a weekly average of uncontaminated asphalt roofing shingles and roofing paper that do not contain asbestos-containing materials.

(4) Facilities that receive less than 500 tons per day based on a weekly average of uncontaminated, unadulterated gypsum wallboard.

(5) Facilities that receive less than 500 tons per day based on a weekly average of unadulterated, uncontaminated wood.

(6) Facilities that receive less than 500 tons per day based on a weekly average of soil, sand, gravel, or rock. The soil must have no evidence of chemical or physical contaminantion such as impacts from spill events, or visual or other indication (odors, etc.) of chemical or physical contamination. This registration may not be combined with registration under paragraph (7) of this subdivision.

(7) Facilities that receive less than 500 tons per day based on a weekly average of restricted-use fill, and limited-use fill. This registration may not be combined with registration under paragraph (6) of this subdivision.

(8) Facilities that receive less than 500 tons per day based on a weekly average of other uncontaminated, source-separated recyclables generated from C&D debris for use under an approved case-specific beneficial use determination in accordance with section 360.12 of this Title.

(9) Facilities that receive a combination of some or all of the wastes listed in paragraphs (1)-(6) and (8) of this subdivision provided the identified wastes under each paragraph are received, processed, and stored separately.

6 CRR-NY 361-5.2

6 CRR-NY 361-5.3

6 CRR-NY 361-5.3

361-5.3 Permit application requirements.

A C&D debris handling and recovery facility that is not subject to the registration provisions of section 361-5.2 of this Subpart must obtain a permit, and must submit an application that includes the requirements identified in section 360.16 of this Title and a description of how the facility will comply with the operating requirements in Part 360.19 of this Title and this Subpart.

6 CRR-NY 361-5.3

6 CRR-NY 361-5.4

6 CRR-NY 361-5.4

361-5.4 Design and operating requirements.

A C&D debris handling and recovery facility required to obtain a registration or permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following:

(a) All receiving, processing, and sorting activities must be conducted in an enclosed building unless otherwise specified in this Subpart or in the transition provisions of section 360.4(b)(4) of this Title. An enclosed building is not required for concrete and other masonry material (including steel or fiberglass reinforcing embedded in concrete), asphalt pavement or asphalt millings, brick, rock, fill material, roofing shingles or unadulterated wood.

(b) All waste and recovered material delivered to and leaving the facility must be weighed or otherwise measured and recorded in cubic yards and tons.

(c) Friable asbestos-containing waste must not be accepted at the facility. Non-friable asbestos-containing waste, if received at the facility, must not be handled or processed in any way that would cause the material to become crumbled, pulverized, or reduced to powder.

(d) The facility must not accept C&D debris, fill material, or similar material from a site being remediated pursuant to a program administered by the department or EPA unless accompanied by written approval from the department or EPA.

(e) For permitted facilities and facilities authorized under section 361-5.2(a)(6) and (7) of this Subpart, any fill material or residue leaving the facility for reuse must be analyzed in accordance with the sampling and analysis requirements in section 360.13(e) of this Title, except a minimum of one analysis is required for every 1000 cubic yards of fill material, and must follow the criteria outlined in section 360.13(f) of this Title.

(f) Storage requirements.

(1) Storage of processed and unprocessed C&D debris is limited as follows:

(i) Unprocessed asphalt pavement, asphalt millings, concrete and other masonry materials (including steel or fiberglass reinforcing embedded in concrete), brick, fill material, rock, or wood can be stored uncovered, but in all cases storage is limited to 365 calendar days unless the following criteria are satisfied to justify a longer storage period.

(a) There is a demonstrated need to store for a longer period, such as a market agreement with terms of receipt based on greater than 365-day intervals or volumes that may take longer than 365 days to acquire.

(b) The facility has sufficient storage area to prevent a negative impact to public health or the environment.

(c) The facility implements an inventory control system, including daily logs, to ensure that the processed recyclables do not remain at the facility for longer than the period approved.

(d) Prior to storing unprocessed and processed recycleable for longer than 365 calendar days, the facility must notify the department of its intent and include justification based on the requirements of this subdivision.

(ii) Storage of any other unprocessed C&D debris must be in an enclosed or covered storage area for a period not to exceed 30 calendar days unless written approval from the department is obtained.

(iii) Storage of material at the site must not exceed the declared volume identified in the application or registration documents.

(iv) Source-separated or processed and separated material that meets a beneficial use determination as specified in section 360.12 or 360.13 of this Title can be stored without time restriction so long as the storage volume conforms with the declared storage volume identified in the application or registration documents.

(2) Processed and unprocessed C&D debris must not be stored in excavations or below normal grade level of the facility.

(3) With the exception of concrete, asphalt pavement or cuttings, brick, or rock, a minimum separation distance of 10 feet must be maintained between adjacent storage piles unless the piles are stored in bins or other structures which separate piles. Storage piles must not extend over property boundaries.

(4) Storage area floors must be constructed of concrete or asphalt paving material and must be equipped with adequate drainage and retention structures. However, concrete or asphalt storage area floors are not required for the separate storage of processed or unprocessed uncontaminated concrete, other masonry waste, asphalt pavement, asphalt millings, unadulterated wood, brick, fill material or rock.

(g) A permitted facility must maintain financial assurance in an amount sufficient to cover the cost of closure of the facility as specified by sections 360.21 and 360.22 of this Title.

6 CRR-NY 361-5.4

6 CRR-NY 361-5.5

6 CRR-NY 361-5.5

361-5.5 Recordkeeping and reporting requirements.

The following criteria apply to both registered and permitted facilities:

(a) The facility must keep records in accordance with section 360.19(k) of this Title. In addition to the requirements of section 360.19 of this Title, all C&D debris handling and recovery facilities must maintain daily records of the quantity of recyclables sent from the facility by material type, including the quantity and destination of material used as alternative operating cover as described in section 363-6.21 of this Title.

(b) The facility must submit an annual report as required by section 360.19(k)(3) of this Title.

6 CRR-NY 361-5.5

6 CRR-NY 361-5.6

6 CRR-NY 361-5.6

361-5.6 C&D debris tracking from registered and permitted facilities.

(a) All fill material, material that does not qualify for a beneficial use under section 360.12 of this Title, or residue leaving a registered or permitted C&D debris handling and recovery facility, and any other material if required pursuant to a department-approved remedial plan, must be accompanied by a C&D debris tracking document prescribed by the department that indicates, at a minimum:

(1) the name and address of the C&D debris handling and recovery facility that generated the waste or material transported;

(2) the name of the transporter; and

(3) the intended destination of the material.

(b) Once the waste or material has reached its destination for disposal or use, the transporter must sign the C&D debris tracking document confirming its delivery. The receiving facility must then sign the C&D debris tracking document and return it to the generating facility within two weeks. The generating facility must maintain these C&D debris tracking documents at its facility for inspection by the department.

(c) If materials are transported to other processing facilities regulated under this Subpart, the additional processing and ultimate disposal or use must be recorded on the C&D debris tracking document or on a new tracking document.

(d) The facility must maintain all C&D debris tracking documents for a minimum of seven years as required by section 360.19(k)(2) of this Title.

6 CRR-NY 361-5.6

6 CRR-NY IV B 361 361-6 Notes

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TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER IV. QUALITY SERVICES

SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-6. WASTE TIRE HANDLING AND RECOVERY FACILITIES

6 CRR-NY IV B 361 361-6 Notes

6 CRR-NY IV B 361 361-6 Notes

6 CRR-NY 361-6.1

6 CRR-NY 361-6.1

361-6.1 Applicability.

(a) This Subpart applies to facilities which store, handle and/or process waste tires. The requirements contained in Part 360 of this Title also apply to this Subpart. This Subpart does not apply to a facility, or a portion of a facility, that is used for combustion or thermal treatment of waste tires, which is regulated under Subpart 362-1 of this Part.

6 CRR-NY 361-6.1

6 CRR-NY 361-6.2

6 CRR-NY 361-6.2

361-6.2 Exempt facilities.

The following facilities are exempt from this Subpart:

(a) Facilities that are exempt under section 360.14(b)(9) of this Title.

(b) Facilities that are registered under Subpart 361-7 of this Part and that store less than 1,000 waste tires. Tires that are mounted on vehicles or that are used to support vehicles (no more than six tires per vehicle) are not included in the total.

6 CRR-NY 361-6.2

6 CRR-NY 361-6.3

6 CRR-NY 361-6.3

361-6.3 Registered facilities.

(a) Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. In lieu of the full requirements described in Part 360 of this Title, each facility must comply with the reporting and recordkeeping requirements of section 360.19(k) of this Title, the closure requirements of section 360.21 of this Title, and the associated operating requirements identified in paragraphs (1), (2), and (3) of this subdivision.

(1) A facility collecting and storing waste tires, where:

(i) all waste tires are stored in enclosed trailers or other enclosed portable containers;

(ii) each enclosed trailer or other enclosed portable container is removed from the facility within seven days of being filled to capacity;

(iii) the facility has a contractual agreement for the removal and use or proper management of the waste tires;

(iv) each enclosed trailer or other portable enclosed container is locked when the facility is closed;

(v) there are no more than six enclosed trailers or other enclosed portable containers at the facility at any one time whether filled or partially filled;

(vi) the facility is enclosed by a security fence if more than two trailers are located at the facility;

(vii) documentation is available at the facility that demonstrates that the storage of the enclosed trailers or other enclosed portable containers is in accordance with State and local building and fire codes;

(viii) waste tires are transported to and from the facility only in accordance with Part 364 of this Title; and

(ix) the facility maintains financial assurance in an amount sufficient to cover the cost of closure of the facility in compliance with sections 360.21 and 360.22 of this Title.

(2) A facility selling waste tires, where:

(i) waste tires are received, sorted by tire size and type, and stored on shelves or racks in an enclosed building or enclosed trailer;

(ii) stored tires are suitable for resale;

(iii) an inventory is maintained by tire size and type that identifies each waste tire;

(iv) documentation is available at the facility that demonstrates that the storage configuration and fire prevention and protection systems are in accordance with State and local building and fire codes;

(v) if storage is in two or more enclosed trailers, the facility or storage area is enclosed by a security fence; and

(vi) the facility maintains financial assurance in an amount sufficient to cover the cost of closure of the facility in compliance with sections 360.21 and 360.22 of this Title.

(3) A facility with a valid registration with the U.S. Department of Transportation as a tire retreader, where:

(i) waste tires are received, sorted, and stored in an enclosed building or enclosed trailer;

(ii) all tire-related waste generated as a result of facility operation is removed from the facility for appropriate management within seven days after generation;

(iii) the storage of whole waste tires is no greater than the 30-day production capacity of the facility;

(iv) an inventory is maintained by tire size and type that identifies each waste tire;

(v) documentation is available at the facility demonstrating that the storage configuration and fire prevention and protection systems are in accordance with State and local building and fire codes; and

(vi) the facility maintains financial assurance in an amount sufficient to cover the cost of closure of the facility in compliance with sections 360.21 and 360.22 of this Title.

6 CRR-NY 361-6.3

6 CRR-NY 361-6.4

6 CRR-NY 361-6.4

361-6.4 Permit application requirements.

A waste tire handling and recovery facility that is not an exempt facility or subject to the registration provisions of section 361-6.3 of this Subpart must obtain a permit, and must submit an application which includes the requirements identified in section 360.16 of this Title and a

description of how the facility will comply with the operating requirements in Part 360 of this Title and section 361-6.5 of this Subpart.

6 CRR-NY 361-6.4

6 CRR-NY 361-6.5

6 CRR-NY 361-6.5

361-6.5 Design and operating requirements.

A waste tire handling and recovery facility required to obtain a permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following:

(a) the storage of whole waste tires is no greater than the 30-day production capacity of the facility, and the storage of processed, cut or shredded tires is no greater than the 90-day production capacity of the facility;

(b) all tire-related waste generated as a result of facility operation is removed from the facility to an authorized solid waste management facility within seven days after generation;

(c) the maximum individual waste tire storage pile size at the facility does not exceed 20 feet in height. Horizontal dimensions of individual waste tire piles must have a surface area no greater than 5,000 square feet, with the width not to exceed 40 feet;

(d) a minimum separation distance of 10 feet must be maintained between adjacent piles unless the piles are stored in bins or other structures which separate piles. Storage piles must not extend over property boundaries;

(e) no waste tire piles can be located in excavations or below grade;

(f) documentation is available at the facility that the storage configuration and fire prevention and protection systems are in accordance with State and local building and fire codes;

(g) facilities having a planned or actual storage capacity of 2,500 or more waste tires have either an active hydrant or a viable fire pond on the facility, and fully charged carbon dioxide or dry chemical fire extinguishers located in strategically placed enclosures throughout the entire facility or other fire protection and prevention equipment approved by the local fire marshal;

(h) potential ignition sources are prohibited in the facility storage area; and

(i) the facility maintains financial assurance in an amount sufficient to cover the cost of closure of the facility in compliance with sections 360.21 and 360.22 of this Title.

6 CRR-NY 361-6.5

6 CRR-NY 361-6.6

6 CRR-NY 361-6.6

361-6.6 Recordkeeping and reporting requirements.

(a) The facility must keep records as required by this Subpart and section 360.19(k) of this Title.

(b) The facility must submit an annual report as required by section 360.19(k)(3) of this Title.

6 CRR-NY 361-6.6

6 CRR-NY IV B 361 361-7 Notes

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SUBCHAPTER B. SOLID WASTES

PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-7. METAL PROCESSING AND VEHICLE DISMANTLING FACILITIES

6 CRR-NY IV B 361 361-7 Notes

6 CRR-NY IV B 361 361-7 Notes

6 CRR-NY 361-7.1

6 CRR-NY 361-7.1

361-7.1 Applicability.

(a) This Subpart applies to facilities that receive, decommission, process, dismantle, store, and recycle metal, discarded metal-containing products (*e.g.*, appliances) and end-of-life vehicles. The requirements contained in Part 360 of this Title also apply to this Subpart.

(b) This Subpart does not apply to a facility, or a portion of a facility:

(1) that receives metals which are source-separated from MSW that is regulated under Subpart 361-1 of this Part;

(2) that receives metal as a part of construction and demolition debris that is regulated under Subpart 361-5 of this Part;

(3) that receives waste tires separated from vehicles that is regulated under Subpart 361-6 of this Part;

(4) that receives electronic waste for the purpose of recovery and recycling; and

(5) that receives municipal solid waste for post-collection separation of recyclables that is regulated under Subpart 362-2 of this Title.

6 CRR-NY 361-7.1

6 CRR-NY 361-7.2

6 CRR-NY 361-7.2

361-7.2 Exempt facilities.

The following facilities are exempt from this Subpart:

(a) Motor vehicle repair shops registered with the New York State Department of Motor Vehicles that store no more than 25 end-of-life vehicles on-site at any one time.

(b) Scrap metal processors that store no more than 1,000 cubic yards of metal on-site at any one time. Storage of metal inside of a building is not included in this volume.

6 CRR-NY 361-7.2

6 CRR-NY 361-7.3

6 CRR-NY 361-7.3

361-7.3 Registered facilities.

(a) Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless they are otherwise exempt facilities. In lieu of the requirements of section 360.19 of this Title and the operating requirements of section 361-7.4 of this Subpart, each facility must comply with the recordkeeping and reporting requirements in section 361-7.5 of this Subpart.

(1) Motor vehicle repair shops registered with the New York State Department of Motor Vehicles that store between 26 and 50 end-of-life vehicles on-site at any one time.

(2) Vehicle dismantling facilities that receive no more than 25 end-of-life vehicles per year and store no more than 50 end-of-life vehicles on-site at any one time.

(3) Scrap metal processors that store more than 1,000 cubic yards of metal.

(b) The following facilities are subject to the registration provisions of section 360.15 of this Title. In addition to the criteria outlined in Part 360 of this Title, each facility must comply with the operating requirements specified in section 361-7.4 of this Subpart and the recordkeeping and reporting requirements in section 361-7.5 of this Subpart.

(1) Motor vehicle repair shops registered with the New York State Department of Motor Vehicles that store more than 50 end-of-life vehicles on-site at any one time.

(2) Vehicle dismantling facilities that receive more than 25 end-of-life vehicles per year or store more than 50 end-of-life vehicles on-site at any one time.

(3) Mobile vehicle crushers.

6 CRR-NY 361-7.3

6 CRR-NY 361-7.4

6 CRR-NY 361-7.4

361-7.4 Design and operating requirements.

Except for facilities identified in section 361-7.3(a) of this Subpart, a facility required to obtain a registration under this Subpart must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following criteria:

(a) End-of-life vehicles arriving at the facility must be inspected upon arrival for leaking fluids and unauthorized waste. Leaks must be remedied or contained to avoid releases of fluids to the environment.

(b) All fluids must be drained, removed, collected, and stored for appropriate use, treatment, or disposal to the maximum extent possible, utilizing best management practices. If hazardous wastes are present they must be disposed in compliance with Part 370 of this Title.

(c) All fluid draining, removal and collection activities as well as all crushing activities must be conducted on a bermed, sealed asphalt or concrete surface or other permanent surface that provides equivalent protections to surface and groundwater. Surfaces must be cleaned daily when in use, and immediately using absorbent materials when a spill has occurred.

(d) End-of-life vehicles must be decommissioned by a facility registered under this Subpart prior to crushing or shredding by removal or deployment of the following materials in accordance with best management practices:

(1) fluids, including but not limited to engine oil, transmission fluid, brake fluid, power steering fluid, coolant, and fuel;

(2) lead acid batteries;

(3) small PCB capacitors, mercury switches and other mercury-containing devices;

(4) refrigerants; and

(5) airbags.

(e) Except for lead acid batteries, any fluids or components identified in subdivision (d) of this section removed from end-of-life vehicles must be stored in closed, labeled containers. Containers that store fluids removed from end-of-life vehicles must be compatible with their contents and must be placed in an area with either a bermed, sealed asphalt or concrete surface or other permanent surface that provides equivalent protections to surface and groundwater. The area must provide containment equal to the volume stored.

(f) Lead acid batteries must be stored off the ground and must be covered to prevent water from contacting the batteries. Leaking or broken lead acid batteries must be stored separately from intact batteries.

(g) The owner or operator must notify the appropriate regional office of the department in which the facility is located at least five business days prior to any crushing activities that are to be performed by a mobile vehicle crusher.

(h) If more than 1,000 tires are stored at the site, excluding those tires mounted onto vehicles, the facility must meet the requirements of Subpart 361-6 of this Part.

(i) Vegetation must be controlled to prevent encroachment into fire access lanes or driveways at the facility and to decrease the potential for fire.

(j) Vehicles must not be stacked in an unsafe manner.

6 CRR-NY 361-7.4

6 CRR-NY 361-7.5

6 CRR-NY 361-7.5

361-7.5 Recordkeeping and reporting requirements.

(a) In lieu of the full recordkeeping requirements identified in section 360.19(k) of this Title, the facility must maintain the following records:

(1) The date of receipt and disposal of all end-of-life vehicles must be recorded and maintained on-site.

(2) Routine inspection logs in accordance with section 360.19(k)(2)(ii) of this Title.

(b) The facility must submit an annual report as required in section 360.19(k)(3) of this Title.

6 CRR-NY 361-7.5

6 CRR-NY IV B 361 361-8 Notes

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PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-8. USED COOKING OIL AND YELLOW GREASE PROCESSING FACILITIES

6 CRR-NY IV B 361 361-8 Notes

6 CRR-NY IV B 361 361-8 Notes

6 CRR-NY 361-8.1

6 CRR-NY 361-8.1

361-8.1 Applicability.

This Subpart applies to facilities that accept used cooking oil or yellow grease for processing to produce ingredients for manufactured products (such as animal feed, etc.) or biofuels, including biodiesel. The requirements contained in Part 360 of this Title also apply to this Subpart. This Subpart does not apply to a facility solely used for combustion of used cooking oil and/or yellow grease or portion of a facility which is regulated under Subpart 362-1 of this Title.

6 CRR-NY 361-8.1

6 CRR-NY 361-8.2

6 CRR-NY 361-8.2

361-8.2 Exempt facilities.

Facilities receiving no more than a total of 1,000 gallons per year of source-separated used cooking oil and/or yellow grease for processing, when the resultant fuel, feedstock, or ingredient is used only on-site or in facility-owned vehicles and not offered for distribution or sale to other entities, are exempt from this Subpart.

6 CRR-NY 361-8.2

6 CRR-NY 361-8.3

6 CRR-NY 361-8.3

361-8.3 Registered facilities.

Facilities receiving no more than a total of 500,000 gallons per year of used cooking oil and/or yellow grease for processing are subject to the registration provision of section 360.15 of this Title unless they are otherwise exempt facilities. In addition to the criteria in Part 360 of this Title, each facility must comply with the following criteria:

(a) A secondary containment system must be in place for all storage of unprocessed and processed used cooking oil and yellow grease. The secondary containment system must be at least 110 percent of the volume of the largest tank or the total volume of all interconnected tanks, whichever is greater.

(b) All storage devices must have an overfill prevention system.

(c) Documentation is available at the facility that fire prevention and protection systems are in accordance with State and local building and fire codes.

(d) The facility must maintain and follow an operation and maintenance plan that includes at a minimum:

(1) procedures to ensure that no unauthorized waste, including brown grease, is received at the facility or, if received, is removed for appropriate treatment and disposal within five days of receipt, unless otherwise authorized by the department in writing;

(2) inventory procedures to ensure that no unprocessed oil or grease is stored at the facility for more than 30 days, no processed oil or grease is stored for more than 12 months, and no residue is stored for more than 7 days;

(3) periodic vector inspection and mitigation;

(4) procedures for spill prevention and appropriately managing spills that can occur; and

(5) procedures for the appropriate disposition of wastewater and any waste generated by processing.

6 CRR-NY 361-8.3

6 CRR-NY 361-8.4

6 CRR-NY 361-8.4

361-8.4 Permit application requirements.

A processing facility that is not an exempt facility or a facility subject to the registration provisions of section 361-8.3 of this Subpart must obtain a permit, and must submit an application that includes the requirements identified in section 360.16 of this Title and a description of how the facility will comply with the operating requirements in Part 360 of this Title and sections 361-8.5 and 361-8.6 of this Subpart.

6 CRR-NY 361-8.4

6 CRR-NY 361-8.5

6 CRR-NY 361-8.5

361-8.5 Design and operating requirements.

A processing facility required to obtain a permit must, in addition to the requirements identified in section 360.19 of this Title, design and operate the facility in compliance with the design and operating requirements in section 361-8.3 of this Subpart.

6 CRR-NY 361-8.5

6 CRR-NY 361-8.6

6 CRR-NY 361-8.6

361-8.6 Recordkeeping and reporting requirements.

(a) The facility must keep records as required by section 360.19(k) of this Title. In addition, the facility must maintain daily records of the quantity of unprocessed used cooking oil and yellow grease received at the facility, material stored on-site by type, and processed oil, grease, and biofuel removed from the facility.

(b) The facility must submit an annual report as required by section 360.19(k)(3) of this Title, which must include:

(1) a summary of the sources and quantities of unprocessed used cooking oil and yellow grease;

(2) quantities of processed oil and grease and/or biofuel distributed during the previous calendar year; and

(3) quantities of all other waste currently on-site.

6 CRR-NY 361-8.6

6 CRR-NY IV B 361 361-9 Notes

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PART 361. MATERIAL RECOVERY FACILITIES

SUBPART 361-9. NAVIGATIONAL DREDGED MATERIAL HANDLING AND RECOVERY FACILITIES

6 CRR-NY IV B 361 361-9 Notes

6 CRR-NY IV B 361 361-9 Notes

6 CRR-NY 361-9.1

6 CRR-NY 361-9.1

361-9.1 Applicability.

This Subpart applies to facilities that handle, store and/or process navigational dredged material (NDM). The requirements contained in Part 360 of this Title also apply to this Subpart.

6 CRR-NY 361-9.1

6 CRR-NY 361-9.2

6 CRR-NY 361-9.2

361-9.2 Registered facilities.

(a) Facilities of the following types are subject to the registration provision of section 360.15 of this Title unless otherwise exempt. In addition to the criteria in Part 360 of this Title, each facility must comply with the applicable requirements of this Subpart. Facilities located at active mined land reclamation sites or C&D debris handling and recovery facilities are ineligible for registrations.

(1) Facilities that receive NDM for the purpose of amending the NDM with portland cement or for the purpose of dewatering on pads or in enclosed geotextile tubes.

6 CRR-NY 361-9.2

6 CRR-NY 361-9.3

6 CRR-NY 361-9.3

361-9.3 Permit application requirements.

(a) Unless otherwise exempt, a NDM handling and recovery facility that is not subject to the registration provisions of section 361-9.2 of this Subpart must obtain a permit, and must submit an application that includes the requirements identified in section 360.16 of this Title and a description of how the facility will comply with the operating requirements in Part 360.19 of this Title and this Subpart.

6 CRR-NY 361-9.3

6 CRR-NY 361-9.4

6 CRR-NY 361-9.4

361-9.4 Design and operating requirements.

A NDM handling and recovery facility required to obtain a registration or permit must, in addition to the requirements identified in Part 360 of this Title, design, construct, maintain, and operate the facility in compliance with the following:

(a) All waste and recovered material delivered to and leaving the facility must be weighed or otherwise measured and recorded in cubic yards or tons.

(b) Storage requirements.

(1) Storage of unprocessed NDM must not exceed 365 days. If the NDM is unprocessible or has no beneficial use, it must be disposed within 30 days.

(2) Storage of NDM at the site must not exceed the declared volume indicated in the permit application or registration documents.

(3) Processed and unprocessed NDM shall not be stored in excavations or below normal grade level of the facility.

(4) A minimum separation distance of 10 feet must be maintained between adjacent storage piles unless the piles are stored in bins or other structures to separate piles. Storage piles must not extend over property boundaries.

(5) Wind and water dispersion of NDM from storage piles must be prevented.

(c) The facility must maintain financial assurance in an amount sufficient to cover the cost of closure of the facility as specified by sections 360.21 and 360.22 of this Title.

(d) Processed and unprocessed NDM from a facility authorized pursuant to this Subpart may be relocated to other sites pursuant to section 360.13(d) of this Title, used pursuant to a case-specific BUD pursuant to section 360.12(d) of this Title, or as alternative daily cover pursuant to section 363-6.21(c) of this Title.

6 CRR-NY 361-9.4

6 CRR-NY 361-9.5

6 CRR-NY 361-9.5

361-9.5 Recordkeeping and reporting requirements.

The following criteria apply to both registered and permitted facilities:

(a) The facility must keep records in accordance with section 360.19(k) of this Title. In addition to the requirements of section 360.19 of this Title, all NDM handling and recovery facilities must maintain daily records of the quantity and destination of NDM received at and sent from the facility by material classification, including the quantity and destination of material used as alternative operating cover as described in section 363-6.21 of this Title.

(b) The facility must submit an annual report as required by section 360.19(k)(3) of this Title.

6 CRR-NY 361-9.5