



**Department of
Environmental
Conservation**

Fill Material Classification and Use

6 NYCRR Part 360.13

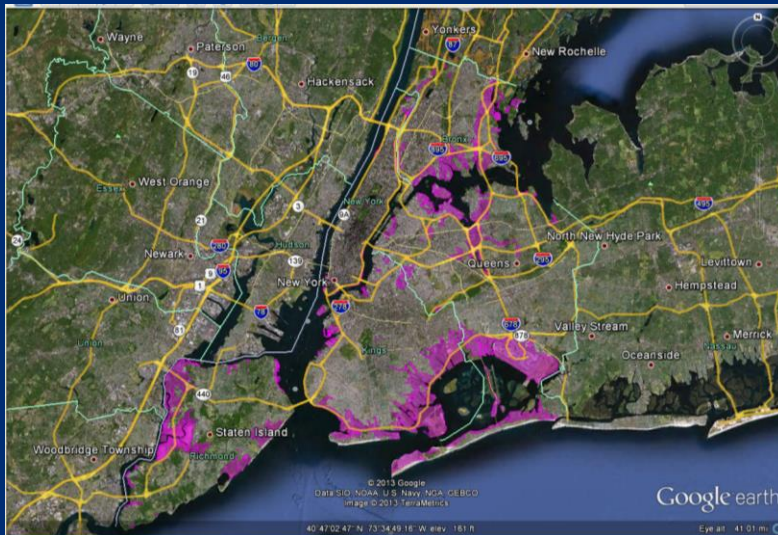
**David Gibb, P.E., Deputy Regional Materials Management Engineer
November 8, 2018**

Discussion Topics

- Background
- Qualified environmental professionals (QEPs)
- Sampling and Analysis
- Beneficial Use of Fill Material
- Fill material emanating and received at:
 - Excavation and grade adjustment projects
 - Construction and demolition debris handling and recovery facilities (CDDHRFs)

Background

- Much of NYC contains urban fill material
- Contains contaminants such as ash, cinder, slag, C&D debris, etc.
- Usually tests high for SVOCs, and some metals (ie: lead, mercury)

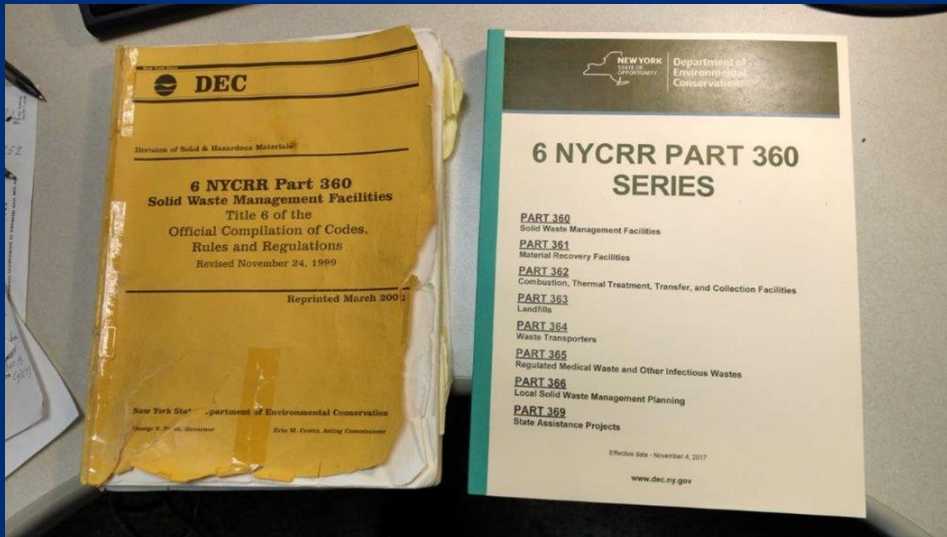


Background



- Illegal Dumping: Such material was ending up in uncontaminated sites/ residential backyards

Background



- New Part 360 regulations, effective November 4, 2017 provide some self implementing uses of material

Qualified Environmental Professionals (QEP)

- Defined in 6 NYCRR Part 360.2(b)(213)
- Includes licensed professional engineers, geologists, and site remediation professionals with 3 years full-time relevant experience
- QEP must develop and implement sampling plans to classify material prior to leaving an excavation project or a CDDHRF

Applicability of 360.13: Sampling and Analysis for Beneficial Use

- Required statewide for all excavation sites, regardless of amount, when:
 - Historic or field observable chemical or physical contamination present
 - Contamination found during excavation
- Required for all excavation sites located in NYC generating more than 10 cubic yards of fill material regardless of historic impact
- Required for all fill material leaving a CDDHRF statewide, starting May 4, 2019

Sampling and Analysis - Excavations

- Minimum sampling frequency set forth in 6 NYCRR Part 360.13(e)(1)
- QEP must determine a site specific sampling protocol to properly classify material
- Physical and chemical analysis



Sampling and Analysis - CDDHRFs



- one analysis per 1,000 cubic yards per Part 360-5.4(e)
- Physical and chemical analysis

Required Analysis

- Minimum analysis
 - Metals, PCBs, pesticides, and SVOCs listed in Part 375-6.8(b)
 - Volume and type of physical contaminants
- Potential additional analysis
 - Asbestos, if demolition occurred onsite
 - VOCs listed in Part 375-6.8(b), based on historical impacts or field observations

Beneficial Uses of Fill Material

- Predetermined beneficial uses – self implementing, no approval from DEC required
 - Unrestricted fill (definition to be added to Part 360)
 - General fill
 - Restricted-use fill
 - Limited-use fill
- Case specific beneficial uses – requires written DEC approval
- Proper disposal required when no beneficial use

Unrestricted Fill Under Part 360.12(c)(ii)

- Only soil, sand, gravel, or rock
- Generated outside of NYC
- No evidence of physical or chemical contamination
- Not subject to classification by QEP
- Transported directly from excavation to final destination
- Use anywhere not prohibited by law

Fill Material Use Under Part 360.13

- General fill
 - Physical: No non-soil constituents
 - Chemical: Lower of Residential and Protection of Groundwater Soil Cleanup Objectives (SCOs) in Part 375
 - Use: Anywhere except undeveloped or agricultural land

Fill Material Use Under Part 360.13

- Restricted-Use Fill
 - Physical: Up to 40% inert non-soil constituents
 - Chemical: Same as general, except up to 3 ppm benzo(a)pyrene (BAP) equivalent. On Long Island, use Groundwater SCOs instead of BAP for polycyclic aromatic hydrocarbons
 - Use: On any land with more heavily contaminated material or in transportation corridors, above seasonal high water table

Fill Material Use Under Part 360.13

- Limited-Use Fill
 - Physical: Up to 100% inert non-soil constituents
 - Chemical: Same as general, except up to 3 ppm BAP equivalent and up to commercial soil cleanup objectives from Part 375 for metals.
 - Use: Under foundations or pavements, above the seasonal high water table, outside of Long Island

Other Requirements of Part 360.13


- Inert, non-putrescible material can include ash or C&D debris, but excludes plastic, gypsum wallboard, wood, paper, or other material that may readily degrade or produce odors
- Building permit or other local approval that authorizes fill must be in place for restricted-use or limited-use fill
- BAP equivalent defined in Part 360.13(f) – Table 2

Case Specific Beneficial Use

- If the material type and/or use does not fit any criteria of Part 360.13(f) – Table 2, then a QEP may petition for a case-specific beneficial use determination
- Fill material which does not meet requirements of any BUD must be properly disposed

Tracking and Notification Scenarios

- From excavation to grade adjustment project
- From excavation to CDDHRF
- From CDDHRF to grade adjustment

 Department of Environmental Conservation Part 360 Series Waste Tracking Document - Construction & Demolition Debris. This form may be used to satisfy the tracking document requirements of both section 363.5.6 and section 364.5.1 for the transport of CDD Debris.

TYPE OF CDD DEBRIS: Limited-Use Fill Restricted-Use Fill Contaminated Fill Fill Material - Unknown
 General Fill Residue Construction Waste Demolition Waste
 Other (specify) _____

WASTE QUANTITY: _____ Tons _____ Cubic Yards Check box to indicate quantity is estimated:

LOCATION WHERE WASTE WAS PICKED UP: Source Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____

GENERATOR: Name: _____ DEC Permit/Reg. No. (if applicable): _____
 Address: _____ City: _____ State: _____ Zip: _____
 Authorized Representative of Generator: _____ Phone: _____
 Transporter Name: _____
 Receiving Facility Name: _____ Chosen by Transporter
 Address: _____ City: _____ State: _____ Zip: _____

I have completed this tracking document describing the waste and identifying its container and receiving facility. I certify, under penalty of law, that the information provided is true and correct. I understand that this information is confidential and that any disclosure or release of this information without my written consent is prohibited. I understand that any false information made in this document is punishable pursuant to Section 130.0 of the Penal Code.

Signature: _____ Date: _____

TRANSPORTER: To be completed by Transporter DEC Permit/Registration No.: _____
 Transporter Company Name: _____
 Describe all Discrepancies in type or quantity of waste: _____

Driver Name (print): _____ Phone: _____ Plate No.: _____
 Signature: _____ Date: _____


RECEIVING FACILITY: To be completed by Receiving site DEC Permit/Reg. No. (if applicable): _____
 Name: _____ Address: _____
 City: _____ State: _____ Zip: _____ Put [X] for Interim processor, or final site
 Describe all Discrepancies in type or quantity of waste: _____

I certify, under penalty of law, that the information contained herein is true and accurate.
 I am aware that any false statement made in this document is punishable pursuant to Section 130.0 of the Penal Code.

Print Name: _____ Phone: _____
 Signature: _____ Date: _____

This completed tracking document for all waste types must be returned to the generator within two weeks of receipt of the waste. It is available for restricted-use fill, limited-use fill and contaminated fill, and for all waste types, except mobile, generated on the City of New York, a copy of the completed tracking document must also be provided to NYSDDEC within 15 days of waste delivery to the receiving facility. [NYC & NYCRR 246.5-1.0(3)]

Rev: May 2012, Ver 1 Return completed forms to NYSDDEC by e-mail to transporter@dec.ny.gov. See to 518-402-0634 or call to 813-Broadway, 9th Floor, Albany, NY 12243-7353.

 Department of Environmental Conservation Division of Materials Management

NYSDM 010

NOTIFICATION OF FILL MATERIAL REUSE

OFFICIAL USE ONLY DATE RECALCULATED: _____

NYSDM Part 363.13 requires notification to the Department for the use of fill material in the following cases:

- At least five days in advance of transfers of general fill, restricted-use fill and limited-use fill generated, imported to, or received within the City of New York in amounts greater than 10 cubic yards.
- At least five days in advance of delivery of restricted-use fill and limited-use fill in amounts greater than 10 cubic yards anywhere in the State of New York.

Notification to the Department is not required when the destination is a facility authorized under § NYCRR Part 361-K; however, the facility may request information required by this form as part of its waste control plan.

1. Generating Site Location and Contact

Project Name: _____
Location of Generating Site: Street Address: _____ City/Town: _____
 County: _____ Zip Code: _____
Contact: Last: _____ First: _____ M.I.: _____
 Office Phone: () _____ Mobile Phone: () _____
 E-mail: _____
Company Name: _____
Company Address: Street Address: _____
 City: _____ State: _____ Zip: _____


2. Fill Material Generated at Remediation Sites

a. Is the fill material generated from a site being remediated pursuant to a program administered by the Department or EPA? YES NO

b. If yes to question 2a, do you have approval from the Department or EPA to reuse this material at the proposed destination? YES NO

If no to question 2b, contact the Department prior to transporting fill material to the destination site.

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 NEW YORK STATE OF OPPORTUNITY Department of Environmental Conservation

From Excavations to Grade Adjustment

- For general fill from NYC, and statewide for restricted-use fill, limited-use fill, and other contaminated fill (>10 cu. yds.):
 - Part 364 registered transporter for C&D debris
 - Use of a tracking document
 - 5-day notification to the Department by generator or end-user (QEP certification)
 - Chemical and physical classification
 - Recordkeeping requirements for generator, transporter and end-user

From Excavation to CDDHRF

- For general fill from NYC, and statewide for restricted-use fill, limited-use fill, and other contaminated fill (>10 cu. yds.):
 - Part 364 registered transporter for C&D debris
 - Use of a tracking document
 - Recordkeeping requirements for generator, transporter and end-user
- The need for chemical and physical characterization is based on waste control procedures at CDDHRF facility

From CDDHRF to Grade Adjustment

- Statewide for general fill, restricted-use fill, limited-use fill, and other contaminated fill:
 - Part 364 registered transporter for C&D debris
 - Use of a tracking document
 - 5-day notification to the Department by generator or end-user (QEP certification, >10 cu. yds., excludes general fill outside NYC):
 - Chemical and physical classification
 - Recordkeeping requirements for generator, transporter and end-user

Important Links

- DEC regulations (Part 360 Series/ Part 375)
 - <http://www.dec.ny.gov/regs/2491.html>
- Tracking Documents
 - <http://www.dec.ny.gov/chemical/8483.html>
- Fill Material Notification and Case-Specific BUD Applications
 - <http://www.dec.ny.gov/chemical/8821.html>

Thank You

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