



**Department of
Environmental
Conservation**

Division of Materials Management Regulation & Program Update

Federation Conference
2022 Solid Waste & Recycling Conference
The Sagamore, Bolton Landing
May 25, 2022

Richard Clarkson, Asst. Director
Division of Materials Management
NYSDEC

- **Recycling and Pollution Prevention:
Part 350 & Part 360
Series Revisions &
Program Updates**

Adopted Part 350

Food Donation and Food Scraps Recycling Law

New regulations used to implement the Law.

- 350-1: General
- 350-2: Designated Food Scraps Generators
- 350-3: Generators, Organics Recyclers, and Transporters Lists
- 350-4: Transporter and Solid Waste Management Facility Responsibilities

Part 361

Existing regulations covering the permitting and operation of solid waste management facilities (organics recycling).



Adopted 6 NYCRR Part 353: Expanded Polystyrene Foam Container/Polystyrene Loose Fill Packaging Reduction

- Part 353 implements ECL Article 27, Title 30, the ban on expanded polystyrene foam containers and loose fill packaging (commonly referred to as packing peanuts) that began on January 1, 2022.
- It explains the financial hardship waiver application process and how to demonstrate an undue financial hardship; provides definitions for key terms, including "comparable cost"; and provides criteria for financial hardship waiver approval, renewal, and denial.
- DEC and partners at the NYS Center for Sustainable Materials Management have developed guidance documents to assist with choosing alternatives to EPS foam.
- <http://on.ny.gov/FoamFreeNY>

Rulemaking Timeline

9/8/21 – Proposed Rule published in *State Register* and ENB

11/15/21 – Public hearing

11/22/21 – Public comment period ended

****Assessment of Public Comments****

3/30/22 – Adopted Rule published in *State Register* and ENB

4/14/22 – Effective date of regulations

Questions can be sent to:
foamban@dec.ny.gov



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Adopted 6 NYCRR Part 368: Product Stewardship and Product Labeling

- 368-1: Recycling Labeling:
Repealed and replaced the outdated regulations for [recycling emblems](#)
- 368-2: Mercury-Added Consumer Products Labeling:
New regulations under the existing NYS Mercury-Added Consumer Products Law ([ECL Article 27, Title 21](#))
- 368-3: Electronic Waste Collection, Recycling & Reuse:
New regulations under the existing NYS Electronic Equipment Recycling and Reuse Act ([ECL Article 27, Title 26](#)) – regulated entities have until **January 1, 2023**, to comply
- The rulemaking documents, including Assessment of Public Comment are available at <https://www.dec.ny.gov/regulations/123241.html>



NYS Postconsumer Paint Collection Program

- Law signed in December 2019; Program officially launched **May 1, 2022**.
- Provides for convenience collection and recycling of unwanted paint through a consumer assessment.
- PaintCare, Inc. was the producer responsibility organization to submit a proposed plan for approval.
- <https://www.dec.ny.gov/chemical/120606.html> or the PaintCare New York program webpage
- <https://www.paintcare.org/states/new-york/#/new-program-in-2021> for more information including drop-off locations



Universal Waste Proposed Rulemaking:

- aerosol cans and waste paint to be included to allow these wastes to be handled under the universal waste rule which will encourage recycling and allow flexibility under the State's consumer paint take back law.

Future Part 352-1: 1,4-Dioxane Limits for Household Cleansing, Personal Care and Cosmetic Products

- Will implement the requirements in ECL 35-0105 and 37-0117
- Waivers may be granted for up to two years



Rulemaking Timeline
2020 and 2021 -
Public meetings and
comment periods for
waivers and product testing
criteria (comment periods
closed)

Now – Accepting
waiver applications,
posting granted waivers,

- Developing draft
regulations to be released
for public comment



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Future Part 352-2: Toxic Chemicals in Children's Products

- Will implement [ECL Article 37 Title 9](#)
- Creates an ingredient disclosure program for children's products
- Prohibits the sale of children's products containing asbestos, benzene or tris(1,3-dichloro-2-propyl) phosphate

Rulemaking Timeline

2021 – Public meetings and comment period on chemicals under consideration (comment period closed)

Now – Developing draft regulations, including lists of chemicals, to be released for public comment



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Future Part 352-3: Regulation and Reporting of Flame Retardant Chemicals

- Will implement [ECL Article 37 Title 10](#)
- Prohibits sale of upholstered furniture, mattresses or electronic displays that contain covered flame retardant chemicals – 12/1/24 and 12/1/25
- Prohibits sale of electronic displays after 12/1/22 unless annual report identifying organo-halogen flame retardants has been submitted to DEC
- Program policy for annual reporting requirements under development
 - Regulations to follow



Hazardous Packaging Act - PFAS in Food Packaging Amendment

- **New** law goes into effect 12/31/2022
- Amends Hazardous Packaging Act (ECL Article 37, Title 2)
- Restricts distribution, sale, offering for sale of food packaging with intentionally added PFAS

Packaging and Paper Product EPR

- Maine and Oregon passed PPP EPR legislation in 2021
- Is New York next?
 - Executive Budget Proposal (did not end up in Budget) – [Transportation, Economic Development and Environmental Conservation Article VII Bill | NYS FY 2023 Executive Budget](#)
 - Senate Bill 1185 C – [NY State Senate Bill S1185C \(nysenate.gov\)](#)
 - Assembly Bill A10185 – Introduced on May 5, 2022.
 - Session ends June 2

- **Solid Waste Management Facilities:
Part 360 & Part 370
Series Revisions**



- **Proposed SWMF Part 360 Series Revisions**
 - Statutory implementation
 - Environmental protection improvements related to landfills
 - Adjustments related to C&D Debris/Excavated Material and Fill Material
 - Easing regulatory requirements where environmental protection is not impacted

Rulemaking Timeline

May 18, 2022 - Publish Proposed Rule and Begin 60-day Comment Period

July 19, 2022 – Public Hearing

July 25, 2022 – End of Comment Period

Fall/Winter 2022 – Issue Final Rulemaking Package

Winter/Spring 2022/23 – Rule Effective

Proposed Part 360 Series Revisions: Statutory Changes

- Revisions related to ECL Section 27-0903, which removes the exclusion from the definition of hazardous waste for wastes produced during oil and natural gas exploration and production
- Revisions related to ECL Section 15-0517, which requires additional groundwater monitoring and operating requirements at composting facilities, mulch processors, and construction and demolition (C&D) debris facilities on Long Island

Proposed Part 360 Series Revisions: Statutory Changes

- Revisions related to ECL Section 27-2213, which requires DEC to adopt regulations implementing the requirements of Article 27 Title 22 Food Donation and Food Scraps Recycling Law
 - Set requirements for transfer facilities, municipal waste combustors, and landfills related to diversion of food scraps from solid waste disposal. Example: “...[facilities] must take reasonable precautions to not accept food scraps from designated food scrap generators...”
- Revisions related to ECL Section 27-2007, postconsumer paint collection program:
 - Newly added registered waste paint collectors if they operate under the requirements of a department-approved postconsumer paint collection plan
 - Allow Conditionally Exempt Small Quantity Generators to send wastes to authorized registered facilities.

Proposed Part 360 Series Revisions: Landfills

- Thicker geomembranes for liner construction: sets the minimum requirement at 80 mils rather than 60 mils
- Default double composite liners for all solid waste landfills
- Horizontal gas collection lines at C&D debris landfills
- Require setback between new landfills or lateral/vertical expansion of existing landfills and a school or legal place of residence:

C&D Debris/Excavated Material and Fill Material

- Conceptual shift related to Concrete, Asphalt, Rock, Brick and Soil (CARBS)

FROM Source separation of C, A, R, B, and S



TO Source separation of S from CARB

- Reset regulatory focus on contaminated soil – high potential of negative impacts

C&D Debris/Excavated Material and Fill Material

Adjusted requirements for C&D debris including excavated material to make it easier to handle and reuse concrete, asphalt pavement, rock and brick (CARB).

- Expand exemption to allow contractors who generated certain CDD/Excavated Material to manage those wastes under their ownership or control.
- Remove 500 ton per day threshold for registered CDDHRFs
- Establish new registered facility type that can accept combinations of asphalt, concrete, brick and rock to match newly established BUDs
- Establish a new registered facility type for storage of CARB and mixtures of CARB
- Require most soil excavated as part of a construction or demolition project that is directed to a Solid Waste Management Facility to only be received by permitted CDDHRFs.
- Reduce the sampling frequency for fill material with lower amounts of contaminants



Easing regulatory requirements where environmental protection is not impacted

- New exemption for small (<20cy/day) municipally owned/operated RHRFs
- Remove upper throughput limit for registered RHRFs
- New exemption for transfer facilities accepting <3000 tons/yr of yard waste
- Add TF exemption for municipalities that hold seasonal waste collection events fewer than 5 days per year
- Clarify TF exemption to exclude source-separated recyclables from exemption threshold to encourage collection of recyclables
- October 1 submission deadline for LSWMP biennial updates



CLCPA

Permit Actions

CLCPA Permitting consideration

Section 7

- Applies to all state agencies when issuing permits/approvals
- Agencies must consider consistency with attainment of the Statewide GHG limits
- Agencies must prioritize emissions reductions in disadvantaged communities and consider burdens on disadvantaged communities

Section 9

- Amends Community Risk and Resiliency Act
- Applies to DEC permits
- All UPA major permits to consider climate change risks and include mitigation measures

CLCPA Section 7(2)

CLCPA Section 7(2) requires that the Department consider three questions when issuing permits or making other administrative decisions:

- 1) Is the project under review consistent with the achieving the statewide GHG emission limits for 2030 and 2050?
- 2) Is the project justified?
- 3) If the project is justified but it is not consistent with the CLCPA, what mitigation measures will be required?

Thank You

Rick Clarkson

Division of Materials
Management

richard.clarkson@dec.ny.gov

518-402-8678

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