

**MAY 2018 NEW YORK STATE TRANSPORTATION AGENCY, AUTHORITY AND CORPORATION SURPLUS MATERIALS GUIDANCE (STATEWIDE) – Revised  
NYSDEC Part 360 Series Solid Waste Management Regulations**

**Table A – Guidance for Recycling Asphalt and Concrete at HMA and PCC Producers**

7/9/2018

<b>Material</b>	<b>Intended Fate*</b>	<b>Regulated under NYSDEC Parts 360-366 and 369</b>
Uncontaminated Rock	Re-use in Asphalt or Concrete Pavement	No – See NYSDEC Part 360.12(c)(3)(viii)
Uncontaminated Brick or Masonry	Re-use in Asphalt or Concrete Pavement	No – See NYSDEC Part 360.12(c)(3)(viii)
Concrete Chunks	Re-use in Asphalt or Concrete Pavement	No – See NYSDEC Part 360.12(c)(3)(viii)
Asphalt Chunks or Millings	Re-use in Asphalt Pavement	No – See NYSDEC Part 360.12(c)(3)(ix)
Asphalt Chunks or Millings	Re-use in Asphalt Pavement	No – See NYSDEC Part 360.12(c)(3)(x)

**\*Materials in Table A are only exempt from the regulation as solid waste at these facilities if they are re-used as noted. Subsequent guidance tables and solid waste regulations apply for other uses and disposal.**

**HMA** – Hot Mix Asphalt

**PCC** – Portland Cement Concrete

**Note** – NYSDEC Part 360.12(c)(3)(x) allows for processing of chunk asphalt into Reclaimed Asphalt Pavement (RAP) aggregate at the HMA plant without other DEC waste processing authorization

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**Table B - Guidance for Soil/Sand/Gravel/Rock**

7/9/2018

<b>Material</b>	<b>Generation Location</b>	<b>End Use Location/Facility</b>	<b>Reuse or Fill Type State Specification</b>	<b>NYSDEC Reference Condition(s)</b>	<b>Transporter Permit/Registration</b>
Non-Contaminated <b>Soil/Sand/Gravel/Rock</b>	NYS Highway Right-of-Way (ROW) NYS Bridge ROW	On-NYS ROW and Off-NYS ROW	<b>General Fill</b> Material is not a regulated waste	360.12(c)(1) ii – Soil with no visual or evidence of historic contamination can be used with no constraints	No
Contaminated <b>Soil/Sand/Gravel/Rock</b> (other materials present and/or test results not meeting General Fill use criteria)	NYS Highway ROW NYS Bridge ROW	Fill Material On-NYS ROW	Fill usages based on contamination present per NYSDEC Table 2 criteria in 360.13(f)* or may be subject to 360.13(c) exemption if used on same site.	360.13 pre-determined or 360.12 (d) case specific Beneficial Use Determinations (BUDs). All case-specific BUDs require NYSDEC approval of receiving site(s).	No
Contaminated <b>Soil/Sand/Gravel/Rock</b> (other materials present and/or test results not meeting General Fill use criteria)	NYS Highway ROW NYS Bridge ROW	Fill Material Off-NYS ROW	Fill usages based on contamination present per NYSDEC Table 2 criteria in 360.13(f)*	360.13 pre-determined or 360.12 (d) case specific BUDs. All case-specific BUDs require NYSDEC approval of receiving site(s).	Hauler Registration for single shipments exceeding 10 cubic yards
Contaminated <b>Soil/Sand/Gravel/Rock</b> (test results not meeting any beneficial use criteria)	NYS Highway ROW NYS Bridge ROW	Disposal at Part 363 Permitted Facility	Disposed of as Waste	Materials being disposed of in Part 363 facilities do not qualify for any beneficial uses under 360.12	Hauler Registration for single shipments exceeding 10 cubic yards

**\* Supplemental Notes Regarding Part 360.13:**

- **Complete Section 360.13 and NYSDEC Table 2 found at:** [Part 360.13](#)
- **NYSDEC Notification of General, Restricted and Limited Use Fill Material Transport Form available at:** [https://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/budtransfill.pdf](https://www.dec.ny.gov/docs/materials_minerals_pdf/budtransfill.pdf)
- **360.13(f) Table 2 Fill Material Beneficial Use Clarification regarding Nassau and Suffolk Counties:**  
**Restricted Use Fill** - In Nassau or Suffolk County – “BAP equivalent does not apply. Polycyclic aromatic hydrocarbons must not exceed Protection of Groundwater Soil Cleanup Objectives in Table 375-6.8(b) of this Title.”  
**Limited-Use Fill** – Placement in Nassau and Suffolk Counties is prohibited.  
**360.13(g)(5)(iii)** - Limited-use fill and restricted-use fill generated outside of Nassau and Suffolk counties is prohibited from being transported to any destination within Nassau or Suffolk County.

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**Table C - Guidance for Uncontaminated and Recognizable Concrete**

7/9/2018

Material	Generation Location	End Use Location/Facility	Reuse or Fill Type State Specification	NYSDEC Reference Condition(s)	Transporter Permit/Registration
<b>Concrete</b> Uncontaminated/ recognizable and including incidental embedded reinforcing bar or mat	NYS Highway ROW NYS Bridge ROW  <u>Bridge Work</u> -Deck -Abutments -Wing Walls -Piers -Girders -Foundations -Approach Slabs  <u>Highway Work</u> -Road -Drainage Structures -Sign Bases -Signal Bases -Sidewalks	On-NYS ROW and Off-NYS ROW/Reuse as commercial aggregate per specification	<b>Commercial Substitute for Aggregate</b> – Suitable material aggregate for embankments, subgrade or other commercial uses per accepted specifications including but not limited to:  <u>NYS DOT Material Items</u> 203.03 Embankment 203.06 Select Fill 304.11 Subbase Course	360.12(c)(3)(viii) allows for the reuse of recycled aggregate (uncontaminated recognizable concrete) when it meets state specification for that use.	No
		On-NYS ROW and Off-NYS ROW Recovery/Recycling Facility or Operation	<b>Beneficial Use Material</b> (Suitable aggregate for recycling and reprocessing but not directly reused)	On-NYS ROW: Processing activities are exempt by 360.14(b)(1)	No
	<u>Culvert Work</u> -Round Pipe -Box or 3 Sided Wing Walls Footers			Off-NYS ROW: Part 361 registered or permitted recovery facility	No  Enforcement discretion for Off-NYS ROW transport expires 5/3/19

- **On or Off-NYS ROW – Indefinite storage of recyclable concrete, asphalt pavement or millings under the control of the generator allowed under discretionary enforcement until May 3, 2019**

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**Table D - Guidance for Uncontaminated and Recognizable Asphalt**

7/9/2018

Material	Generation Location	End Use Location/Facility	Reuse or Fill Type State Specification	NYSDEC Reference Condition(s)	Transporter Permit/Registration
<b>Asphalt</b> Uncontaminated/ recognizable	NYS Highway ROW NYS Bridge ROW  -Highways -Bridge Decks -Sidewalks -Driveways -Parking Areas -Rest Areas -Pull Offs -Culvert Inverts -Drainage Ditches -Operations Facilities	On-NYS ROW or Off-NYS ROW Reclaimed Asphalt Pavement (RAP) or ingredient meeting specification standards (including Off-NYS ROW Asphalt Plant)	<b>Asphalt Pavement Ingredient</b> – ingredient at asphalt plant or used in RAP or otherwise meets specification standards On or Off NYS ROW for pavement use	360.12(c)(3)(ix) and (x) allows for the use of asphalt and asphalt millings when making asphalt at an asphalt plant or when used in RAP or as an ingredient in pavement that meets specification standards	No
		On-NYS ROW and Off-NYS ROW Recovery or Recycling facility or operation	<b>Beneficial Use Material</b> – Suitable aggregate for recycling and reprocessing or asphalt ingredient, but requires additional processing for reuse	On-NYS ROW: Processing activities are exempt by 360.14(b)(1)	No
				Off-NYS ROW: Part 361 recovery Facility	No  Enforcement discretion for Off-NYS ROW transport expires 5/3/19

- **On or Off-NYS ROW – Indefinite storage of recyclable concrete, asphalt pavement or millings under the control of the generator allowed under discretionary enforcement until May 3, 2019**

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**Table E - Guidance for Uncontaminated and Recognizable Asphalt or Concrete Landfill Exemption**

7/9/2018

<b>Material</b>	<b>Generation Location</b>	<b>End Use Location/Facility</b>	<b>Reuse or Fill Type State Specification</b>	<b>NYSDEC Reference Condition(s)</b>	<b>Transporter Permit/Registration</b>
<b>Concrete or Asphalt</b>  Uncontaminated/ recognizable	On-NYS ROW from any sources listed for concrete or asphalt individually or with other RUCARBs (recognizable, uncontaminated concrete, asphalt, brick, glass, rock, and general fill.	On-NYS ROW	General placement of concrete or asphalt (by itself or with other RUCARBs and general fill)	Placement allowed per 363-2.1(i) exemption to landfill regulation. Placement above seasonal high water table. Must only be RUCARB with no C&D residue, 360.12(c)(1)(i) fill material and/or 360.13 general or restricted-use fill	No
		Off-NYS ROW	General placement of concrete or asphalt (by itself or with other RUCARBs and general fill)	Placement allowed per 363-2.1(h) exemption to landfill regulation. Placement only during daylight with no disposal fee, above seasonal high water table. Must only be general fill and RUCARB with no C&D residues, and in quantities not exceeding 5,000 cubic yards per location.	Hauler Registration for single shipments exceeding 10 cubic yards

- Landfill exemption does not apply in Nassau or Suffolk Counties

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**Table F - Guidance for Building Construction & Demolition (C&D) Debris (and other mixed C&D Debris)**

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<b>Material</b>	<b>Generation Location</b>	<b>End Use Location/Facility</b>	<b>Reuse or Fill Type State Specification</b>	<b>NYSDEC Reference Condition(s)</b>	<b>Transporter Permit/Registration</b>
<b><u>Building C&amp;D</u></b> Wood Glass Roofing Concrete Finishes	On-NYS ROW  Building demolition or modification	Part 361 Material Recovery Facility or Part 363 Landfill	<b>Processing or Disposal</b>	Transported to a Part 361 material Recovery facility or Part 363 landfill	Hauler Registration for single shipments exceeding 10 cubic yards

NYSDEC Part 360 Series Waste Tracking Document for Construction & Demolition Debris available at:  
[https://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/cdtracking.pdf](https://www.dec.ny.gov/docs/materials_minerals_pdf/cdtracking.pdf)