

New York State proposed rules designed to stop illegal dumping

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By Jennifer Barrios



Investigators say there has been illegal dumping at the southeast corner of Islip Avenue and Sage Street in Central Islip, May 13, 2014. Photo Credit: John Roca

HIGHLIGHTS

- Solid-waste redraft has new requirements for mulch facilities
- 'Historic fill' could be regulated statewide for the first time

The state released a sweeping redraft of its solid-waste regulations on Monday — a proposal in part designed to stop illegal dumping of the type Suffolk authorities say has occurred in and around Islip Town.

The potential new requirements include cradle-to-grave tracking of construction and demolition debris along with rules designed to address odor and contamination concerns at mulch facilities.

The state Department of Environmental Conservation and Suffolk County have expressed concerns about contamination from such sites leaching into groundwater — the sole source of drinking water for the Island’s nearly 3 million residents.

“The proposed changes address emerging threats posed by illegal dumping and large mulch facilities, while also easing regulatory burdens,” acting DEC commissioner Basil Seggos said in a statement accompanying the release of the draft.

“These new regulations will help reduce contamination threats while safeguarding natural resources so that we can ensure a healthier and safer environment for communities all across this state,” Gov. Andrew M. Cuomo said in a statement.

[Long Islandslip dumping scandal indictment](#)



The state will hold three public hearings on the draft, beginning with one in Hauppauge on June 2. It also will take public comment until July 15 at solidwasteregulations@dec.ny.gov.

The new regulations must be adopted by the DEC within one year of the last public hearing, currently scheduled for June 7 in Rochester.

The proposal — the first substantial changes to the state’s Part 360 solid-waste regulations since 1993 — would split Part 360 into seven sections, covering everything from landfills to C&D debris to biohazard wastes.

The state would require tracking of debris coming from all C&D processing facilities “to enable the department to more easily investigate and enforce against those who illegally dispose of C&D debris,” according to a document accompanying the draft.

Waste transporters would have to register with the state, while transport of more than 10 cubic yards of C&D debris and other material would spark a requirement for documents showing where the material originated and where it ultimately would be disposed.

[SuffolkIslip dumping scandal: A timeline](#)



In December 2014, six men and four companies were indicted on charges they dumped contaminated fill — much of it C&D debris — in four places in and around Islip Town, including a park, a vacant lot, a residential development and a wetlands area. Two of the men and the four companies currently are on trial in that case.

“The illegal disposal of C&D debris has been a significant problem” on Long Island and other areas downstate, the document accompanying the draft noted. The requirements “will provide an additional enforcement tool for managing these activities.”

Historic fill — a contaminated mixture of wastes and ash that historically was dumped into bays and other water bodies to build up usable land — also would be managed for the first time under the draft. Historic fill often can be found in urban areas, such as New York City’s waterfronts.

“As these areas have been redeveloped, excavated historic fill has illegally been delivered to registered construction and demolition debris processing facilities,” where it sometimes ends up in topsoil that is delivered to suburban areas of the state, an environmental-impact statement accompanying the draft read. “Historic fill is a solid waste and its use and placement needs to be more closely regulated due to the contaminants contained in it.”

The draft regulations would place new requirements on how historic fill is used, and would require it be sent to a landfill unless it can be proven to contain only uncontaminated materials.

[TownsDumping scandal includes multiple Suffolk sites](#)



“The addition of these new provisions for management and transport of historic fill should result in appropriate and consistent management of this material which has created problem disposal sites, especially in Long Island and the lower Hudson Valley,” the document read.

Mulch facilities, currently exempt from regulation, would be subject to new restrictions on the size of compost piles and would have to manage water runoff.

Suffolk County released a report last month that found mulching facilities appeared to cause contaminants to leach into groundwater.

“As industry participation is essential to manage solid waste on Long Island, it is imperative to understand the new compliance obligations proposed and we will work with the department to do so,” said Michael White, an environmental attorney in Westbury who represents several Long Island solid-waste and recycling companies.

While the new Part 360 draft has been in the works for years, it wasn’t until December, when Assemb. Steven Englebright (D-Setauket) held a hearing on sand mining and illegal dumping on Long Island, that DEC officials announced the state would release it.

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Cuomo also referred to the draft in his December veto message of a bill Englebright authored that would have increased regulations over mulch facilities on Long Island, saying the legislation wasn't necessary due to the impending changes to Part 360.

While Englebright on Monday said he and his staff were still reading the draft, he praised it as an "historic and meaningful step forward."

"They have taken really a step in the right direction, and should be applauded for doing so," he said.

Proposed regulations

The state's new draft solid-waste regulations would:

- Manage historic fill — an often-contaminated mixture of wastes once used to fill in wetlands and dug up in modern excavations, only to improperly end up in mixtures sold as topsoil.
- Begin regulating mulch facilities, now exempt under current regulations.
- Tighten controls over construction and demolition debris facilities and transport of the debris.