



Beneficial Use Determinations (BUDs)

A Beneficial Use Determination (BUD) is a designation made by the Department pursuant to 6 NYCRR Part 360.12, whether Parts 360-365 Solid Waste Management Regulations have jurisdiction over waste material which is to be beneficially used. Once the Department grants a BUD, the waste material ceases to be considered a solid waste (for the purposes of Parts 360-365) when used as described in the BUD.

Predetermined BUDs

There are 28 predetermined BUDs listed in 6 NYCRR Part 360.12(c).

- If any of these specific wastes are used by a generator or end user in the manner noted in Subdivision 360.12(c), they are not considered solid wastes.
- Note that the point of waste cessation differs for various materials. Reporting of annual quantities to the Department is required when a quantity of material distributed in any year under these predetermined BUDs exceeds 10,000 tons. See below for this Predetermined BUD Large Quantity Reporting form.

Predetermined BUD Use Forms

If you are transporting or using any material under one of the predetermined BUDs, you can carry a form to show that you are using the material pursuant to Department regulation. [Choose the appropriate Predetermined BUD Use Form\(s\)](#) and add your company information. The completed form can be provided to contractors, transporters, or local and state officials when needed to document the reuse of material. You can also print a regulatory citation that does not include your company information. **Use of these forms is optional.**

Notification of the Department is required for transport of Fill Material used under a predetermined BUD in some instances. A form has been developed for this purpose:

[Notification of Fill Material Reuse \(PDF, 459 KB\)](#)

Case-Specific BUDs

In situations where a proposed reuse is not specifically identified in Subdivision 360.12(c), generators and potential users can petition the Department for a case-specific BUD in accordance with Subdivisions 360.12(d), (e), or (f).

Generally, case-specific BUDs are for waste material used:

- as a substitute for a component material in the manufacture of a product;
- as a substitute for a commercial product.

The Section 360.12 regulations further clarify that when granting a case-specific BUD, the Department will determine, on a case-by-case basis, the precise point in the proposed process and/or use at which the waste material ceases to be regulated as a solid waste.

- This is typically designated at the point in the process where the waste material will be used.
- A BUD petition may include a request that the point of cessation be designated at some point in the process before actual use.
- In evaluating such requests, the Department will consider the potential for improper disposal of the waste material and the possibility that the handling, transfer, and storage of the waste material may have an adverse impact on the public health, safety or welfare, the environment, or natural resources.

Some examples of case-specific BUDs that have been granted include:

- The use of dried paper mill sludge as animal bedding;
- The use of crushed countertop material as a construction aggregate;
- The use of gypsum in the manufacture of wallboard or as a soil amendment; and

- The use of a nitrate solution from silver processing as a fertilizer.

For a sortable list of Granted BUDs, see [Case-Specific Beneficial Use Determinations: Beginning 1988 on NYS Open Data](#) (leaving DEC website).

Petitioning for a Case-Specific BUD

A case-specific BUD petition must be submitted in writing and must include all the information required by paragraph 360.12(d)(2), 360.12(e)(2), or 360.12(f)(2), unless otherwise directed by the Department. Forms are available to submit a petition for a BUD. In general, the individual, company or organization signing the petition form must be the material generator or potential end-user, not a third party (unless the third party can demonstrate it will be responsible for management of the material throughout the period of the BUD).

These forms are as follows:

[Beneficial Use Determination Petition - General \(PDF, 222 KB\)](#)

[Beneficial Use Determination Petition - Cement Kiln Feedstock \(PDF, 167 KB\)](#)

[Beneficial Use Determination Petition - Materials for Case-Specific Fill or Cover Use \(PDF, 326 KB\)](#)

[Beneficial Use Determination Petition - Road Treatment Using Gas and Oil Well Production Brine or LPG Storage Brine \(PDF, 135 KB\)](#)

[Beneficial Use Determination Petition - Navigational Dredged Material \(PDF, 167 KB\)](#)

[Beneficial Use Petition - Animal Feed \(PDF, 93 KB\)](#)

Following a review of the petition, the Department will determine whether the proposed use constitutes a beneficial use based on a showing that all criteria outlined in subdivisions 360.12(d), (e), or (f) have been met.

- For example, a petition that seeks a BUD for the substitution of a waste material for a raw material in a manufacturing process will be evaluated to determine whether the proposed use is a legitimate substitution, or whether the predominant nature of the use is comparable to disposal.
- The Department will respond in writing to the petitioner regarding granting of the BUD, denial of a BUD, or that the petition is incomplete. The time it will take to review a BUD petition will depend on the completeness of the petition, complexity of the project and whether coordination is needed with other Department programs or agencies.

Renewing a Case-Specific BUD

Pursuant to Paragraph 360.12(d)(7), case-specific BUDs are valid only for the time period stated in the letter granting the BUD, or for a period no longer than five years. The BUD holder can request to renew a BUD. Renewal requests must be in writing and include justification for review and approval by the Department. To assist with renewal requests, a form has been developed:

[Beneficial Use Determination Renewal \(PDF, 259 KB\)](#)

Annual Reporting for BUDs

BUD holders who must submit annual reports can use one of these forms:

[Annual Report Form for Beneficial Use in 2020 - Case Specific \(PDF, 93 KB\)](#)

[Annual Report Form for Brine Use in 2020 - Brine \(PDF, 73 KB\)](#)

[Annual Report Form for Pre-Determined Beneficial Use in 2020 - Large Quantity \(PDF, 63KB\)](#)

Case-specific BUD Compliance Inspections

In order to ensure that waste material that has received a BUD is being utilized consistently in accordance with the BUD provisions, inspections are conducted from time to time to ensure compliance.

Predetermined BUD Use Forms

Material	Beneficial Use	Form with Site-Specific Information	Regulatory Citation Only
	No Longer Considered Solid Waste When Used	360.12(c)(1)	

Certain excluded hazardous wastes	Reclamation, recycling, or reuse in process	(i)	360.12(c)(1)(i)
Untested clean soil*	Fill or cover	360.12(c)(1)(ii)	360.12(c)(1)(ii)
Tested clean soil (general fill)*	Fill or cover	360.12(c)(1)(iii)	360.12(c)(1)(iii)
Urban or mixed fill material	Fill	Use Notification of Fill Reuse Form	
Dredged sand and gravel	Aggregate	360.12(c)(1)(iv)	360.12(c)(1)(iv)
*Only for soil generated outside New York City			
No Longer Considered Solid Waste When Received at Location of Use			
Uncontaminated newsprint	Animal bedding	360.12(c)(2)(i)	360.12(c)(2)(i)
Uncontaminated used wood pallets	Reconditioned or remanufactured pallets	360.12(c)(2)(ii)	360.12(c)(2)(ii)
Street sweepings, car wash grit, or water system catch basin material	Aggregate or fill	360.12(c)(2)(iii)	360.12(c)(2)(iii)
Whole or cut waste tires	Tarpaulin weights	360.12(c)(2)(iv)	360.12(c)(2)(iv)
Bread, bakery products, and spent brewery grains	Livestock or pet food	360.12(c)(2)(vi)	360.12(c)(2)(vi)
Unprocessed, source-separated recyclables	Manufacturing feedstock	360.12(c)(2)(vii)	360.12(c)(2)(vii)
No Longer Considered Solid Waste When Meeting Requirements for Use			
Ground granulated blast-furnace slag	Cement kiln feedstock or concrete aggregate	360.12(c)(3)(i)	360.12(c)(3)(i)
Unadulterated wood ash	Soil amendment	360.12(c)(3)(ii)	360.12(c)(3)(ii)
Industrial waste	Manufacturing feedstock (historical use)	360.12(c)(3)(iii)	360.12(c)(3)(iii)
Fats, oil, grease, and rendered animal parts	Feedstock for non-fuel products	360.12(c)(3)(iv)	360.12(c)(3)(iv)
Coal combustion fly ash	Ingredient in concrete products, block, flowable fill	360.12(c)(3)(v)	360.12(c)(3)(v)
Flue-gas desulfurization or other gas-scrubbing byproducts	Substitutes for gypsum and calcium chloride (except for land application)	360.12(c)(3)(vi)	360.12(c)(3)(vi)
Coal combustion bottom ash	Aggregate in concrete, asphalt pavement, or roofing materials	360.12(c)(3)(vii)	360.12(c)(3)(vii)
Crushed concrete, brick, and/or rock	Aggregate or subbase	360.12(c)(3)(viii)	360.12(c)(3)(viii)
Ground or milled asphalt pavement	Subbase, backfill of utility cuts, or in pavement mixes	360.12(c)(3)(ix)	360.12(c)(3)(ix)
Mixed crushed concrete, brick, rock, and asphalt pavement	Subbase or fill under pavement	Sept. 19, 2019 EDL Para II	Sept. 19, 2019 EDL Para II
Asphalt pavement chunks or millings	Delivered to asphalt pavement manufacturing plant	360.12(c)(3)(x)	360.12(c)(3)(x)
Clay, till, or rock excavated as part of navigational dredging	Aggregate or fill	360.12(c)(3)(xi)	360.12(c)(3)(xi)
Materials Processed at Solid Waste Management Facilities			
Processed recyclables, such as crushed glass	Aggregate, mulch, drainage media, manufacturing ingredient	360.12(c)(4)(i)	360.12(c)(4)(i)
Compost and other products from 361-3 facilities	Soil conditioning	360.12(c)(4)(ii)	360.12(c)(4)(ii)
Ground tree debris, wood debris, yard trimmings	Mulch, absorbent, etc.	360.12(c)(4)(iii)	360.12(c)(4)(iii)

Tire-derived aggregate	Residential septic systems, mulch, playgrounds and athletic fields	360.12(c)(4)(iv)	360.12(c)(4)(iv)
Scrap metal	Recycling	360.12(c)(4)(v)	360.12(c)(4)(v)
Processed used cooking oil and yellow grease	Products meeting applicable standards	360.12(c)(4)(vi)	360.12(c)(4)(vi)