

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel, Deputy Commissioner & General Counsel

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To Whom It May Concern:

This is to advise you, that subject to the terms set forth in this letter, the New York State Department of Environmental Conservation ("DEC" or "Department") will exercise its authority to utilize enforcement discretion with respect to certain provisions of 6 NYCRR Part 361 of the November 2017 enacted Part 360 Series. The DEC will exercise this authority regarding the below provisions until October 1, 2020. All other provisions of the Part 360 Series remain in effect and will be enforced.

## Land Application and Storage of Surplus Milk

Effective November 4, 2017, the 6 NYCRR Part 360 Solid Waste Management Facilities regulations were revised, replaced and enhanced, creating a new Part 360 Series. Under the revised Part 361-2, the land application and storage of food processing waste (including surplus milk) on a farm that is not a concentrated animal feeding operations (CAFO) farm requires a Registration under 361-2.3(b) or 361-2.3(c).

In recognition of the current surplus milk crisis caused by the COVID-19 restrictions, the Department will utilize its enforcement discretion with respect to the enforcement of the Part 361-2 provisions requiring a Registration for the land application and/or storage of excess milk on non-CAFO farms. Under this discretion, land application and storage must follow the technical criteria provided by the New York State Department of Agriculture and Markets.

Thank you for your cooperation in this matter. If you have any questions, please call Sally Rowland of the Division of Materials Management at [sally.rowland@dec.ny.gov](mailto:sally.rowland@dec.ny.gov).

Sincerely,



Thomas S Berkman

Deputy Commissioner & General Counsel