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On the ground – and at the table.

New York City Environmental Justice Alliance’s (NYC-EJA) Testimony to New York State Department of Environmental Conservation for the Public Hearing on Proposed Part 360 Solid Waste Management Facility Regulations. June 9th, 2016

Thank you for the opportunity for public comment on the Proposed Part 360 regulation changes. My name is Priya Mulgaonkar, a Policy Organizer with the New York City Environmental Justice Alliance (NYC-EJA).

Founded in 1991, NYC-EJA is a non-profit citywide membership network linking grassroots organizations from low-income neighborhoods and communities of color in their struggle for environmental justice. NYC-EJA empowers its member organizations to advocate for improved environmental conditions and against inequitable environmental burdens. Through these efforts, member organizations coalesce around specific common issues that threaten the ability of low-income communities of color to thrive, and coordinate campaigns designed to inform City and State policies. Addressing environmental justice issues while creating more sustainable and resilient communities is central to NYC-EJA’s agenda.

New York City creates roughly 35,000 tons of garbage every day. This garbage is trucked to transfer stations in a small handful of NYC neighborhoods and then trucked back out of the City. Every day, garbage trucks needlessly travel thousands of miles throughout New York City polluting our air with diesel fuel, clogging our streets, and diminishing our quality of life. These impacts are greatest in those few low-income and communities of color where old truck-dependent transfer stations are clustered, and along the truck routes used to haul garbage. Not surprisingly, these same communities deal with many sources of pollution and the negative health consequences thereof -- such as asthma, heart disease, and cancer. Thus, our communities have a huge stake in how waste facilities are regulated, and whether this is enforced.

This testimony focuses on the proposed Part 361 regarding Material Recovery Facilities that handle Construction and Demolition materials, or C&D.

Roughly half of the solid waste produced in the City consists of C&D material. This debris, much of it coming from older buildings, can contain lead paint, mercury-based biocides, leaded pipes, asbestos insulation, and many other materials hazardous to public health.

While the new Part 361 Proposed regulations will require many facilities processing mixed C&D to be enclosed, they will *not* require immediate retrofitting of existing facilities. This would exempt as many as 23 facilities located in the Bronx, Brooklyn and Queens from taking the necessary measures to prevent harmful material from contaminating our communities.

These facilities and other waste-processing centers have long contaminated and disrupted the lives of New York's most vulnerable communities. One of NYC-EJA member organizations, THE POINT CDC, a cornerstone community development group in the South Bronx, has reported on the many negative impacts of unenclosed C&D facilities on the neighborhood, specifically two facilities, Aspha Transfer LLC and J&D Recycling.

Located just steps away from Barretto Point Park on the Hunts Point Peninsula, these facilities have impacted local residents with poor air quality, from potentially toxic dust, particulate matter and debris, constantly escaping these unenclosed facilities, and from the diesel emissions spewing from idling trucks. This contributes to the already burdensome impact of truck and industrial pollution in a community with some of the highest rates of asthma in the country.

According to the DEC's latest report, both Aspha Transfer and J&D recycling are currently operating on expired permits, with J&D's permit having expired almost 4 years ago. In addition, we were unable to find Aspha Transfer's self-reported tonnage per day processed on the DEC's public server – thus, there is no way to determine whether this facility would require permitting or simply registration based on the DEC's new proposed Part 361 250 tons per day threshold.

Each of these points illustrates that even for permitted facilities, there is a gross lack of oversight on the commercial waste sector, whose processing facilities are located immediately next to vulnerable EJ communities. We are also concerned about the general lack of transparency and data available to the public, which would help the State enforce regulations and allow our communities to hold these businesses accountable.

Under the current proposed 361 rules, these two facilities, among numerous others sited in the South Bronx, North Brooklyn and Southeast Queens, would *not* be required to enclose their hazardous materials. There must be stronger efforts to protect the areas where people live, work and play. To ensure that the toxic hazards associated with C&D facilities are contained, we recommend that all existing C&D facilities be required to retrofit for enclosure.