

**DSH-SW-05-01**  
**New York State Solid Waste**  
**Management Policy Guidance**

New York State Department of Environmental Conservation

**DEC Policy**

**Issuing Authority:** Division of Materials Management

**Date Issued:** 10/19/05

**Latest Date Revised:** 10/01/12

**I. Summary:**

This Program Policy was formerly identified as TAGM SW-89-01.

This document provides guidance on what the Department will consider to be an acceptable analysis of an application's or plan's "consistency" with ECL 27-0106. It should be recognized that every plan and most applications require a comprehensive recycling analysis [360-1.9(f)] that includes an implementation program. This program requires the adoption of local laws or ordinances mandating source separation and recycling, regardless of the final waste management option proposed. The analysis must also demonstrate how the applicant will achieve the State's waste reduction and recycling performance objective of 50 percent established in the New York State Solid Waste Management Plan.

**II. Policy:**

Section 27-0106 of the Environmental Conservation Law (ECL) sets forth the State's statutory solid waste management policy. This policy provides an ordered listing of preferred solid waste management methodologies for managing solid waste in a manner that will reduce dependency on land burial of raw wastes. This hierarchy, in descending order of preference, is:

- a. first, to reduce the amount of waste generated;
- b. second, to reuse material for the purpose for which it was originally intended or to recycle material that cannot be reused (For this purpose, composting and anaerobic digestion are considered forms of recycling.);
- c. third, to recover, in an environmentally acceptable manner, energy from solid waste that cannot be economically and technically reused or recycled; and
- d. fourth, to dispose of solid waste that is not being reused, recycled or from which energy is not being recovered, by land burial or other methods approved by the Department (ECL 27-0106.1). (All

solid waste management methodologies not specifically identified in the hierarchy under (a), (b) and (c) (for example, non-energy recovery combustion) have equal preference to disposal in a landfill. Note: All forms of composting and anaerobic digestion come under (b) in the hierarchy.)

In addition, "this policy, after consideration of economic and technical feasibility, shall guide the solid waste management programs and decisions of the Department and other state agencies and authorities" (ECL 27-0106.3).

### **III. Purpose and Background:**

The Department interprets ECL 27-0106.3 to require any level of local government developing a local solid waste management plan under ECL 27-0107 or applying for 6 NYCRR Part 360 permits to construct and to operate a solid waste management facility or to renew a permit to operate such a facility, to address consistency of the proposed plan or project with the ordered listing, emphasizing maximum feasible waste reduction, source separation and recycling. Furthermore, under 6 NYCRR Part 360-1.9(f), any such application submitted by or on behalf of a municipality for an initial 6 NYCRR Part 360 permit to construct or to operate a landfill (other than one exclusively for ash-residue, clean fill, or construction and demolition debris), solid waste incinerator (other than one used exclusively to incinerate infectious waste), a refuse-derived fuel processing facility, a recyclables handling and recovery facility, a composting facility (other than one used exclusively for yard waste or sludge), or a transfer facility must include a comprehensive recycling analysis, or a local solid waste management plan that addresses all components of a comprehensive recycling analysis.

### **IV. Responsibility:**

The responsibility and update of this Program Policy shall reside with the Bureau of Permitting and Planning within the Division of Materials Management. Any questions regarding solid waste management that cannot be answered by this Policy, should be directed to the Bureau of Permitting and Planning.

### **V. Procedure:**

Every local solid waste management plan and all applications for Part 360 permits to construct or to operate, or renew a permit to operate, a solid waste management facility must describe how the plan/project proponent has accounted for each solid waste management methodology in order of appearance in ECL 27-0106.1 and discuss the programs which are planned. As an example,

the plan should discuss the program which will be used for waste reduction and then for recovering recyclables as preferred methods to reduce the waste stream instead of combustion with energy recovery or disposal in a landfill.

a. **Waste Reduction/Reuse/Recycling**

The recyclables recovery program must detail how each facility for which a permit is sought or planning unit (in the case of a plan) will attain specified, progressively increasing percentages by weight of all waste (i.e. residential, commercial, institutional, industrial, construction and demolition debris, and biosolids) that shall be recovered as recyclables on an annual basis. An example of progressively increasing percentages is: 25% by year 1, 35% by year 2, 45% by year 3, and 50% or greater by year 4, and so on, of the plan or permit. The actual percentages to be attained are case specific; however they must reflect the maximum practicable that could be obtained under the circumstances.

The plan/application also must address the source separation mandate identified in Section 120-aa of the General Municipal Law, and how the proposed recyclables recovery program complies with the September 1, 1992 source separation mandate, and how those requirements will be enforced.

b. **Combustion with Energy Recovery, Disposal in a Landfill and Other Methods Approved by the Department**

Since the inception of the solid waste management hierarchy, many municipalities have expressed concern that they would be forced to include municipal waste combustors with waste reduction/reuse/recycling as part of their solid waste management plan, even if disposal in a municipal solid waste landfill with waste reduction/reuse/recycling was evaluated to be an environmentally and economically sound solid waste management program. This concern is misplaced.

Although municipal solid waste landfilling is listed as the least preferred method in the solid waste management hierarchy, in combination with waste reduction/reuse/recycling, it may be acceptable for a municipality or applicant to choose that combination over combustion with energy recovery in combination with waste reduction/reuse/recycling, based upon case-specific factors, which could include environmental, geographic, demographic, economic and other circumstances appropriate for the area to be serviced.

This determination would be made during Department review of the project for compliance with 6 NYCRR Parts 360 (Solid Waste Management Facilities) and 617 [State Environmental Quality Review (SEQR)]. The ECL links the permit/SEQR process to the solid waste management hierarchy by two explicit means: ECL 27-0106.3 and 27-0707.2.a. These provisions require the assessment of the project to address the project's consistency with the hierarchy.

If a municipality or applicant proposes disposal of municipal solid waste in a landfill with waste reduction/reuse/recycling for the area to be serviced, the environmental assessment of the project, after first addressing the minimization of the quantity of waste brought to the facility for treatment or disposal (i.e., through the implementation of comprehensive waste reduction, reuse and recycling programs-including composting and anaerobic digestion), must clearly articulate and substantiate its decision and compare the relative merits of disposal of municipal solid waste in a landfill with waste reduction/reuse/recycling and waste-to-energy incineration with waste reduction/reuse/recycling in the area proposed to be serviced by the project.

This comparison should address such items as, but not limited to: the short and long-term economic, social and technical feasibility of each solid waste management methodology; an assessment of the land resources required by the project and the area required for the disposal in a landfill of both municipal solid waste and residual waste; and the potential end use(s) of the landfill. Examples of items that should be addressed in the cost analysis are detailed in Tables 1 and 2.

The Department will evaluate the issue of the proposed project's consistency with the statutory hierarchy of solid waste management methodologies, along with all the other information received on the proposed project, and will then decide, on a case-by-case basis, the acceptability of the specific proposal for the selected solid waste management methodology.

In this manner, the project sponsor will evaluate the proposed project in accordance with the hierarchy in ECL 27-0106, and may come to the conclusion that a combustor with energy recovery may not be necessary after it has been examined as previously described.

However, the project sponsor may come to the conclusion that it is feasible and desirable to take the remaining portion of the waste stream that is not reduced/reused/recycled and

extract energy from it through combustion, and significantly reduce the volume of waste materials that will be required to be disposed of in a landfill.

**Table 1: GENERAL MUNICIPAL WASTE COMBUSTOR WITH ENERGY RECOVERY**

**Pre-development:**

Site Selection  
Environmental Assessments  
Permit Application (includes Engineering/Legal Fees)  
Land Acquisition/Lease

**Site Preparation and Construction:**

Site Preparation  
Construction Labor  
Construction Management  
Structures (Materials and Equipment)  
Start-up  
Acceptance Testing  
Insurance During Construction  
Financing costs (Capitalized Interest, Bonding, etc.)  
Miscellaneous (Sales and Use Taxes, etc.)

**Facility Operation and Maintenance:**

Administrative Personnel  
Equipment (Labor, Contracts, Supplies, Spare Parts)  
Facility and Building (Labor, Contracts, Supplies, Spare Parts)  
Fuel and Chemicals  
Testing and Monitoring

Contract Services

- Reporting Requirements
- Legal
- Management
- Equipment Rental

Host Fees

Residue/Bypass Hauling, Treatment and Disposal\*

Major Equipment Replacement (Replacement Year and Replacement Cost)

Equipment Rentals or Leases

Insurance

**Cost/Post Closure: (if any)**

**Revenues:**

Recovered Energy (Steam and/or Electricity)

Tipping Fees

\* Refer to Table 2 for cost factors associated with residue and bypass landfills.

**TABLE 2  
GENERAL LANDFILL COST FACTORS**

**Pre-development:**

Site Selection

Environmental Assessments (includes Hydrogeologic Investigation)

Permit Application (includes Engineering/Legal Fees)

Land Acquisition/Lease

**Site Preparation and Construction:**

Site Preparation

- Clearing & Grubbing
- Base Area Preparation

Construction Labor

Construction Management (includes Quality Assurance/Quality Control)

Structures (Materials)

- Liner & Leachate Collection System
- Leachate Storage Facility
- Building & Scales
- Access Road & Control Roads

Insurance During Construction

Financing costs (Capitalized Interest, Bonding, etc.)

Miscellaneous (Sales and Use Taxes, etc.)

**Facility Operation and Maintenance:**

Personnel

Equipment (Purchase, Maintenance and Replacement)

Facility and Building Maintenance (Labor, Contracts and Supplies)

Leachate Hauling & Treatment

Environmental Monitoring/Testing

Contract Services

- Reporting Requirements
- Legal
- Management

Host Fees

Maintenance (Grounds and Leachate Collection System)

Insurance

**Closure:**

Engineering

Construction Labor

Construction Management (Quality Assurance/Quality Control)

Structures (Materials)

- Final Cover System
- Gas Control

Insurance During Construction

**Post-Closure:**

Leachate Hauling & Treatment

Environmental Monitoring

Annual Inspections

Maintenance (Cap & Leachate Collection System)

Insurance

**Revenues:**

Recovered Energy (Methane Recovery)

Tipping Fees

If you have any questions, please contact:

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