

PROPOSED

6 NYCRR Part 366

**Local Solid Waste Management
Planning**

PART 366

LOCAL SOLID WASTE MANAGEMENT PLANNING

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SUBPART 366-1

GENERAL

Section 366-1.1 Purpose and applicability

- (a) This Part specifies the standards for the content, review and approval of a local solid waste management plan (LSWMP). LSWMPs are required for municipalities seeking new permits under Parts 362 and 363, or for those applying for state assistance funding under Part 369.
- (b) Any planning unit may submit a draft LSWMP for review and approval.
- (c) An LSWMP must:
- (1) satisfy the scope set forth in section 27-0107 of the ECL for LSWMPs;
 - (2) take into account the objectives of the state solid waste management policy set forth in section 27-0106 of the ECL;
 - (3) reflect the goals and objectives of the current state solid waste management plan; and
 - (4) lead to a sound, long-range, sustainable solid waste management system for a planning unit that results in progressively increasing recovery of recyclables and reduces the amount of waste requiring disposal or thermal treatment.
- (d) This Part also includes requirements for annual planning unit reports and LSWMP biennial updates, which will establish an on-going process for evaluating the performance of the LSWMP's objectives and establish a structure for the modification of the implementation schedule and objectives, as necessary.
- (e) An LSWMP must plan for the sound management of all non-hazardous waste generated within the planning unit for a 10-year planning period. The LSWMP must also reflect and employ sound principles of solid waste management, natural resource conservation and energy conservation while fostering employment-creating opportunities.
- (f) The LSWMP will be considered to be in effect when it has been approved by the department in accordance with this Part. In order for the LSWMP to remain in effect, all required annual planning unit reports and biennial updates must be submitted to and approved by the department in accordance with this Part.
- (g) Any changes to planning unit membership must be approved by the department in a new LSWMP or in a biennial update as appropriate that addresses membership changes in accordance with this Part in order to render the LSWMP effective for all member municipalities.
- (h) Submittals under this Part are not subject to Part 621 of this Title.

SUBPART 366-2

LOCAL SOLID WASTE MANAGEMENT PLAN (LSWMP) CONTENTS

Section 366-2.1 Description of planning unit

The LSWMP must include a description of the planning unit, including:

- (a) the size and location;
- (b) the population, including estimates for rural, urban and suburban populations;
- (c) a list of all planning unit members including all municipalities, agencies, and authorities along with a description of each member's role and responsibilities;
- (d) a list of neighboring planning units or other neighboring jurisdictions along with a description of any related significant issues, conditions or characteristics of each of these neighboring planning units or other neighboring jurisdictions which could complement or adversely affect the implementation of the LSWMP and the attainment of its objectives;
- (e) a description of any significant or special characteristics or circumstances pertaining to the planning unit, including but not limited to, major population centers, large or significant industries, institutions, commercial activity, high-volume organic waste generators, agricultural activities, significant seasonal variations of population and land use, and state or federal parks, along with their effect on waste generation, materials recovery and program implementation;
- (f) a summary of changes to the planning unit since approval of the previous LSWMP, and their quantitative and qualitative impacts on the planning unit, neighboring planning units or other neighboring jurisdictions, including but not limited to, planning unit membership, solid waste management practices, waste generation and/or composition, materials recovery and program implementation; and
- (g) a brief description of the historical solid waste management practices within the planning unit, including quantitative and qualitative data collected during the previous planning period for the solid waste generated in the planning unit during the previous planning period, and how they evolved into the current practices.

Section 366-2.2 Waste generation and materials recovery data

The LSWMP must include a presentation of the quantity and compositional characteristics of all solid waste generated and expected to be generated within the planning unit and material recovery data for the planning unit. If actual data is not available or is incomplete, estimates may be developed based on available information acceptable to the department. The data presented must include:

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- (a) All waste from all waste categories, including municipal solid waste (i.e., residential, commercial, and institutional), subdivided into individual components by type, including, but not limited to: various paper grades (e.g., newspaper, corrugated cardboard, paperboard, and office paper); metal; glass; plastics; organics, including yard trimmings, food scraps (which includes organics from high-volume generators); textiles; construction and demolition (C&D) debris; industrial waste; biosolids and scrap metal.
- (b) Projections of waste generation quantities for each year of the planning period based on estimated population changes.
- (c) Identification of the information used to develop the analysis, along with an explanation of projections with all assumptions.
- (d) A summary assessment of any data gaps and informational needs must be included identifying their nature and scope.

Section 366-2.3 Existing solid waste management system

The LSWMP must include a description and assessment of all solid waste management facilities and programs relating to management of waste generated within the planning unit as well as waste generated outside the planning unit but managed at facilities within the planning unit. The description and assessment must include:

- (a) an identification and description of every facility (including any facilities outside the planning unit to which solid waste from the planning unit is delivered), including their location, size and capacity and the type and amount of solid waste originating within the planning unit and managed at each facility;
- (b) for facilities located in the planning unit that receive solid waste from outside the planning unit, an identification of the type and amount of waste received from outside the planning unit and the planning unit(s) from which it originated;
- (c) an identification and description of any agricultural operations managing any organic components of municipal solid waste (MSW) or food processing waste;
- (d) an identification of the types and amount of waste managed from each generating sector, including the residential, commercial, institutional, and industrial sectors, as well as C&D debris, biosolids and scrap metal;
- (e) a detailed description and summary of the following: the current waste reduction, reuse and recycling programs conducted by or within the planning unit by material type and generating sector including recyclables collection and processing programs; organics recovery programs; public outreach and education programs; efforts to enforce local disposal and recycling laws; volume-based pricing incentives or other financial incentives; recycling market agreements; local hauler licensing; recycling data collection efforts; and

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(f) a summary assessment of the current solid waste management system including: facilities; programs administered and identification of any data gaps and information needs.

Section 366-2.4 Existing administrative structure

The LSWMP must include a description and assessment of the existing administrative and financial structure of the planning unit including:

(a) an organizational chart(s) depicting the entities and staff responsible for implementing each element of the solid waste management system, including but not limited to, operations, administration, finance, outreach and education, enforcement, data collection and evaluation, and LSWMP updates and reports;

(b) the financial structure and costs for all solid waste management facilities and programs operated or administered by the planning unit and/or its member municipalities including:

(1) costs, including capital investments, insurance, operation, maintenance, closure and post-closure costs if applicable, administration, and financing;

(2) revenues, including fees, fines, and recyclables or recovered energy revenues; and

(3) funding mechanisms that are used to finance any facility operations, maintenance, and programs and events administered by the planning unit or its members;

(c) an identification of all laws and policies related to solid waste management within the planning unit, including but not limited to:

(1) the source separation laws adopted pursuant to section 120-aa of the General Municipal Law (GML);

(2) waste importation and/or disposal prohibitions, flow control or local hauler licensing laws;

(3) local product stewardship resolutions or green procurement and sustainability orders;

(4) contracting mechanisms and laws (e.g., those applicable to purchasing or districting);

(5) zoning laws or building permits; and,

(6) local environmental justice requirements.

(d) a summary assessment of the current administrative and financial structure of the planning unit that identifies both strengths and deficiencies in the current structure.

Section 366-2.5 Alternatives evaluation and selection

The LSWMP must list and evaluate alternatives and enhancements to the existing solid waste management program that will decrease the amount of waste managed through disposal and

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thermal treatment by increasing waste reduction, reuse and the recovery of recyclables to the maximum extent practicable over the term of the planning period.

(a) The alternatives analysis must address, at a minimum:

- (1) waste reduction programs;
- (2) development and implementation of reuse programs;
- (3) recyclables recovery programs for paper, metal, glass, plastic, and textiles;
- (4) organics recovery programs for food scraps, yard trimmings, and biosolids;
- (5) programs to develop or improve local markets for recyclables;
- (6) enforcement programs;
- (7) incentive-based pricing;
- (8) education and outreach;
- (9) data collection and evaluation efforts;
- (10) local hauler licensing programs, including assessment of laws preventing commingling of recyclables with waste;
- (11) flow control and districting potential;
- (12) construction and demolition debris reduction, including deconstruction, reuse and recovery programs;
- (13) private sector management and coordination opportunities;
- (14) management of waste through thermal treatment technologies; and
- (15) waste disposal options.

(b) Alternative Evaluation. For each alternative evaluated, the following must be addressed:

- (1) the estimated quantitative and qualitative impact of each alternative on the various components of the waste stream;
- (2) the appropriate types and sizing of facilities or programs necessary, based on the projected quantities and composition of the solid waste to be generated by the planning unit;
- (3) a summary of the cost data used for evaluation, including consideration of any available life-cycle analysis data for the various alternatives;

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(4) an analysis of potential quantitative and qualitative impacts to existing waste reduction and recovery efforts, and to neighboring planning units and other neighboring jurisdictions, including:

(i) an assessment of interest in participation by other neighboring planning units or other neighboring jurisdictions;

(ii) alternatives that would be available if any neighboring planning units or other neighboring jurisdictions participated; and

(iii) input received from any neighboring planning units or other neighboring jurisdictions; and

(5) a list of laws, resolutions, rules, regulations, or ordinances that are applicable or necessary to implement each alternative evaluated.

(c) Selected Alternatives and Programs. After the various alternatives have been evaluated, preferred alternatives and programs to be pursued will be selected by the planning unit. A summary must be provided for each selected alternative or program that includes:

(1) the reasons for its selection;

(2) an identification of expected qualitative and quantitative impacts, including, but not limited to, reuse, waste reduction, materials recovery, increased participation in recovery opportunities and product stewardship programs, and economic, administrative or partnership benefits;

(3) an identification of expected environmental, economic and social impacts to the planning unit, to neighboring planning units, and other neighboring jurisdictions;

(4) program details and requirements, including investigation of other tasks to implement; and

(5) an identification of the administrative, contractual, and financial requirements required for program implementation.

(6) an identification of any new or modified local laws, ordinances or regulations that may be required to fully implement the selected alternatives.

Section 366-2.6 Implementation plan and schedule

The LSWMP must include a detailed implementation schedule that outlines the dates when all actions in the LSWMP are expected to occur. This schedule must include:

(a) all programmatic steps necessary to implement the preferred alternatives and programs identified in section 366-2.5(c) of this Part;

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(b) all program elements, facilities, contracts, strategies and tasks necessary to implement all aspects of the LSWMP throughout the planning period; and

(c) for each element of the solid waste management system, the details for implementation throughout the planning period, including staff and specific duties, locations, impacted facilities or programs, required resources, dates for major events and completion of milestones, goals and objectives, and dates to attain expected results, including specified, progressively-increasing percentages of the waste stream that will be recovered.

Section 366-2.7 Material recovery and waste stream projections

The LSWMP must include composition and quantity projections for all solid waste generated within the planning unit each year throughout the planning period, based on actual or estimated solid waste generation data. These projections should take into account the implementation of the programs identified in the implementation plan and schedule developed as part of section 366-2.6 of this Part and any population or waste composition changes anticipated during the planning period.

(a) Projections must be provided for each material type for each year of the planning period based on the implementation schedule.

(b) Projections must be accompanied with an explanation of the assumptions and data used for:

(1) projected waste generation based on projected population, including the percentage of each generating sector;

(2) projected progressively-increasing percentages of recovery of MSW, industrial waste, C&D debris, and biosolids; and

(3) projected progressively-decreasing quantities of waste generated in the planning unit that is managed through disposal and thermal treatment.

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SUBPART 366-3

LSWMP PUBLIC PARTICIPATION

Section 366-3.1 Public participation

The planning unit must solicit and address public comments on the LSWMP, as follows:

- (a) Prior to submission to the department, a draft LSWMP must be released by the planning unit for a public comment period of no less than 45 days.
- (b) A public meeting must be conducted by the planning unit, during the public comment period, to present an overview of the draft LSWMP and to receive comments.
- (c) A responsiveness summary must be prepared by the planning unit, that includes:
 - (1) number of attendees (excluding planning unit representatives);
 - (2) a list of both written comments and those expressed by participating attendees; and
 - (3) a response to each comment individually or by appropriate grouping.
- (d) The responsiveness summary identified in subdivision (c) of this section must be included as part of the draft LSWMP submitted to the department for review and approval.
- (e) Once the department has notified the planning unit that it has determined the draft LSWMP adequately addresses all elements identified in this Part, if either the department or the planning unit conclude that the draft plan differs significantly from the first draft, the planning unit must solicit public comments on the final draft LSWMP in accordance with the procedures identified in subdivisions (a) through (c) of this section.
- (f) The responsiveness summary prepared for the final draft LSWMP, if required, must be included as part of the final draft LSWMP submitted to the department for review and approval.

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SUBPART 366-4

LSWMP APPROVAL

Section 366-4.1 LSWMP approval process

Draft LSWMPs submitted to the department for review and approval by a planning unit must be in a format acceptable to the department.

- (a) The department will review the draft LSWMP to determine whether it contains and adequately addresses all required elements identified in this Part and will provide written notification to the planning unit of its determination.
- (b) If the department determines the draft LSWMP does not adequately address all required elements, the planning unit will be advised of the deficiencies and will be required to resubmit a revised draft LSWMP for review and approval.
- (c) If, in the determination of either the department or the planning unit a revised draft plan differs substantively from the first draft, the planning unit must solicit public comment in accordance with Subpart 366-3 of this Part. A responsiveness summary must be submitted to the department as part of the final draft LSWMP, which will include all changes based on public comments, with a letter summarizing these changes.
- (d) Once the department has determined that the final draft LSWMP adequately addresses all required elements identified in this Part, the department will provide written notification to the planning unit that the final draft LSWMP addresses all required elements of an LSWMP.
- (e) The planning unit must then submit to the department the following:
 - (1) a final LSWMP including all corrections, changes and/or revisions resulting from any department review;
 - (2) a resolution(s) of adoption from all necessary planning unit members, which states that the planning unit or planning unit members, as applicable, will:
 - (i) adopt the LSWMP, effective upon department approval of the LSWMP;
 - (ii) implement and maintain the solid waste management system described in the LSWMP;
and
 - (iii) submit annual planning unit reports and biennial updates.
- (f) Once the department has determined that the final LSWMP and adopting resolution or resolutions are complete and acceptable, the department will approve the LSWMP, in writing. The LSWMP, as approved, will then be the LSWMP in effect for the planning unit for the 10-

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year planning period it describes.

Section 366-4.2 LSWMP Revocation and Succession

(a) The department may declare an LSWMP to be no longer in effect if required annual reports or biennial updates are not submitted, or if the annual reports or biennial updates are deemed insufficient by the department.

(b) If the department determines that an LSWMP is no longer in effect, the department will issue a written declaration that specifically outlines the reasons why the LSWMP is no longer in effect, and establishes what must be provided to bring the LSWMP back into effect.

(c) Upon determination by the department that successful implementation of the LSWMP is no longer viable due to significant internal or external changes (e.g., major facility or administrative restructuring) the department may deem the LSWMP no longer in effect, and require that a new LSWMP be developed.

(d) Any change in the membership of a planning unit requires department approval. Any increase or decrease in the size of a planning unit must be approved either through approval of a new LSWMP or biennial update. The new LSWMP or biennial update must address the effect of the change on all impacted planning units. Any planning unit member seeking to become a new planning unit or join another planning unit, must first obtain department approval. An LSWMP for the new planning unit must then be approved before the entity leaves its current planning unit.

(e) A draft 10-year LSWMP must be submitted to the department no less than one year prior to the end of the previous planning period.

SUBPART 366-5

ANNUAL PLANNING UNIT REPORTS AND LSWMP BIENNIAL UPDATES

Section 366-5.1 Annual planning unit report

(a) An annual planning unit report that will account for all solid waste generated within a planning unit, must be submitted on forms prescribed by or acceptable to the department no later than May 1 of each year.

(b) An annual planning unit report must contain planning unit contact information, identification of sources of waste management and recycling data, and the names, addresses and registration or permit number for each facility that accepted:

(1) waste for thermal treatment or disposal, with separate tonnages listed by management method and facility for all MSW, C&D debris, industrial waste, and biosolids; and

(2) recyclables for recovery, with separate tonnages listed by facility for categories such as various paper components, glass, metal, plastics, organics, textiles, C&D debris and biosolids.

Section 366-5.2 LSWMP biennial update

(a) An LSWMP biennial update must be submitted to the department for review and approval no later than May 1 of every other year following approval of the LSWMP.

(1) Upon submittal, the department will review any LSWMP biennial update to determine whether or not it contains and effectively addresses all matters identified in this section, and will provide written comments to the planning unit concerning deficiencies, requesting resubmittal of the LSWMP biennial update if necessary.

(2) Once the department has determined that the LSWMP biennial update effectively addresses those elements identified in this section, the department will provide written notification to the planning unit that the LSWMP biennial update is approved.

(b) An LSWMP biennial update consists of a summary report, any revised sections of the LSWMP that reflect changes to the LSWMP, and a revised implementation schedule and associated projections.

(1) The summary report must include:

(i) any changes to the planning unit structure;

(ii) actual waste generation, recycling and disposal data and comparisons with and reasons for deviations from projections;

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- (iii) a discussion of any changes to solid waste management practices;
 - (iv) a summary of outreach and education activities;
 - (v) a description of efforts to ensure compliance with local recycling laws; and
 - (vi) the status of conformance with the implementation schedule, including discussion of reasons for deviating from the implementation schedule.
- (2) Revised sections of the LSWMP may result from:
- (i) new or updated data,
 - (ii) obstacles preventing the planning unit from implementing tasks and/or achieving the goals of the LSWMP, or
 - (iii) changes in the planning unit structure.
- (3) A revised implementation schedule and waste projections must comply with the requirements of sections 366-2.6 and 366-2.7 of this part.