

State Assistance to Municipalities for Landfill Gas Collection and Treatment Systems

New York State Department of Environmental Conservation

DEC Policy

Issuing Authority: Carl Johnson, Deputy Commissioner

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I. Summary:

This policy establishes a State assistance program for municipal owners or operators of landfills to recover a portion of the costs of design and construction of active landfill gas collection and treatment systems. This policy has been authorized to be used as guidance for applications for State assistance and reimbursement of active landfill gas management projects since the provisions of 6 NYCRR Part 360-9 have not yet been amended to address these projects. It is the Division's intent to incorporate these guidelines into 6 NYCRR Part 360-9 via a later revision to 6 NYCRR Part 360.

II. Policy:

Municipal owners or operators of landfills who have incurred costs associated with the design and construction of active landfill gas collection and treatment systems will be eligible to recover up to 50 percent of the associated costs, up to a maximum of two million dollars. Eligible costs would include the cost of designing and constructing the gas collection and conveyance systems, including blowers and other associated devices necessary to ready the gas for further use or treatment. In addition, the costs associated with purchasing and installing stationary flares, internal combustion engines or turbines used to treat (burn) the landfill gas would also be eligible.

III. Purpose and Background:

In 1996 and 1998 respectively, the funding eligibility of costs associated with installing active landfill gas collection, control and treatment systems at landfills was added to Title 4 of Article 56 and Title 5 of Article 54 of the Environmental Conservation Law (ECL). The purpose of this program is to utilize State funding to promote improved air quality at solid waste landfills in New York State and to encourage recovery of the energy present in landfill gas.

As organic material decomposes in a landfill under anaerobic conditions, landfill gas is produced. Landfill gas is composed of approximately equal parts of methane and carbon dioxide with trace concentrations of other gases, including non-methane organic compounds (NMOC's). Landfill gas has a Btu value of approximately one-half that of natural gas, with a heating value of 350 to 500 Btu/lb.

The benefits of using landfill gas in place of conventional fossil fuels in certain applications are numerous. Landfill gas is a low-pollution fuel with respect to nitrogen oxides, carbon monoxide, unburned hydrocarbons and volatile organic emissions. In fact, nitrogen oxide emissions are generally about 70 percent lower than those of natural gas combustion due to the low flame temperature that results from the burning of landfill gas.

Active landfill gas collection and control projects can go hand-in-hand with community commitments for cleaner air, improved public welfare and safety, and reductions in greenhouse (global warming) gases such as methane. Converting landfill-derived gases into energy also helps to offset the need for nonrenewable energy resources such as coal and oil, thereby further reducing emissions of air pollutants such as sulfur dioxide, which is a major contributor to acid rain. Gas collection at the active landfills in New York State that are potentially eligible for State monies could provide enough electrical energy to power almost 18,000 homes every year. The harnessing and control of landfill gases from these landfills would result in a reduction in greenhouse gases equivalent to that resulting from removing more than 155,000 cars from the road every year.

Active landfill gas emission controls also help reduce the threat of explosive gas migration from landfills and reduce odors, making the landfill a better neighbor.

IV. Responsibility:

The Division of Solid & Hazardous Materials will implement this policy.

V. Procedure:

Detailed guidelines for the implementation of the policy are included as Appendix A to this document. These guidelines define the eligibility criteria and provide the procedures for municipalities to pursue reimbursement for active landfill gas collection and treatment systems at municipally owned or operated landfills. Appendix B includes a series of questions and responses on portions of the policy in an effort to give the reader a better understanding of the intent of the policy.

If you have any questions, please contact:

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Division of Solid & Hazardous Materials
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Appendix A

State Assistance Funding For Landfill Gas Management System Projects Under the Clean Water/Clean Air Bond Act of 1996 And The Environmental Protection Fund

New York State Department of Environmental Conservation
Division of Solid & Hazardous Materials
Albany, New York

Landfill Gas Management Projects.

(1) Purpose and Applicability

(a) The purpose of this document is to outline the requirements and the procedures by which a municipality may apply for State assistance to help pay for expenditures associated with the design and installation of an active landfill gas management system at a municipally owned or operated landfill. Title 4 of Article 56 and Title 5 of Article 54 of the Environmental Conservation Law (ECL) provide money in the form of State assistance to eligible municipalities.

(i) The New York State Department of Environmental Conservation (Department) may allow a municipality to construct an active landfill gas management system in phases. Each phase of an active landfill gas management system is not a separate landfill gas management system project and does not entitle the municipality to landfill gas management system State assistance in excess of \$2,000,000 for the entire landfill site.

(b) The maximum total of State assistance payments under Title 4 of Article 56 and Title 5 of Article 54 of the ECL for municipalities: with a population equal to or greater than 3,500 can be 50 percent of the eligible project cost or \$2,000,000, whichever is less; or, for municipalities with a population less than 3,500 can be 90 percent of the eligible project cost or \$2,000,000, whichever is less.

(2) Definitions

(a) *Commissioner* means the Commissioner of Environmental Conservation or his duly designated representative [360-1.2(b)(31)].

(b) *Cost* means the capital cost of an approved landfill gas management project including engineering plans and specifications, consultant and other direct capital expenses incident to such project, less any federal, state or other assistance for such project received or to be received.

(c) *Gas mover equipment* for purpose of this policy means the equipment (i.e., fan, blower, compressor, etc.) used to collect and transport landfill gas through the header system.

(d) *Governing body* means:

(i) in the case of a county outside of the City of New York, the county board of supervisors or other elective governing body;

(ii) in the case of a city or village, the local legislative body thereof, as the term is defined in the Municipal Home Rule Law;

(iii) in the case of a town, the town board;

(iv) in the case of a public benefit corporation, the board of directors, members or trustees thereof;

(v) in the case of a public authority, the governing board of directors, members, or trustees thereof;

(vi) in the case of a not-for-profit corporation, the board of directors thereof or such other body designated in the certificate of incorporation to manage the corporation;

(vii) in the case of a Native American tribe, any governing body recognized by the United States or the State of New York; and

(viii) in the case of a state agency, the Commissioner of the state agency.
[ECL 54-0101 (6)]

(e) *Landfill* means land or a disposal facility or part of one where solid waste, or its residue after treatment, is intentionally placed and which is not a land application facility, surface impoundment, or injection well. [360-1.2(b)(95)]

(f) *Landfill Gas Management System* means a system for the control, capture, and management of gas created within and emitted from a solid waste landfill. [ECL 54-0501(4)]

(g) *Municipality* means a local public authority or public benefit corporation, a county, city, town, village, state agencies, state public authorities, state public benefit corporations, or Indian tribe or nation residing within New York State, or any combination thereof.

However, for purposes of expenditures of funds under ECL Article 56, Title 4 of the Clean Water/Clean Air Bond Act of 1996, a municipality does not include a state agency, state public authority, or state public benefit corporation. [ECL 54-0101(7)]

(h) *State assistance payment* means the payment of monies by the state for eligible costs incurred for projects authorized by ECL Article 54, Title 5 and Article 56, Title 4 to preserve, enhance, restore and improve the quality of the state's environment. [ECL 54-0101(11) and ECL 56-0101(26)]

(3) Application eligibility. A municipality which owns or operates a landfill within the State of New York may apply for State assistance for a landfill gas management system at that landfill if the project meets the following requirements:

(a) The site must be municipally owned or operated and the municipality will remain liable for the continued operation and maintenance of the landfill gas management system for its useful life.

(b) The active landfill gas collection and treatment system must be in compliance with the design requirements of 6 NYCRR Part 208, if applicable, and must use a landfill gas management system approved by the Department that conforms to the requirements for new facilities set forth in 6 NYCRR Part 360 that are in effect six months prior to the date the application is received and is designed to maximize the capture of air emissions from the landfill.

(4) State Assistance Application Procedure. A municipality applying for State assistance for a landfill gas management system must use forms designated by the Department. The applications for State assistance shall include:

(a) A copy of the landfill gas management system report. This report must include:

(i) landfill gas investigatory information and analysis which support the landfill gas management system project, including an economic feasibility study which demonstrates a positive return on the investment;

(ii) a gas management system design report, including detailed plans of the active landfill gas collection and treatment system. These plans must adequately delineate, in plan view and in cross-sectional views, the location and grades of all landfill gas collection lines and horizontal gas collector systems, locating all critical elevations of the collection pipe inverts, clean-outs, condensate traps/knockouts, and valves. These plans must include the layout of the facility structure including locations of equipment such as gas handling and treatment systems, flares, internal combustion engines, turbines and air pollution control devices associated with management of the landfill gas from initial collection through conversion of landfill gas into a marketable product such as electricity or pipeline quality gas. These plans must also include: temperature and pressure indicators; sampling port locations; and extraction well locations, depths of placement, and associated construction drawings.

(b) A landfill gas management system work plan outlining the tasks to be completed and tasks already completed, a timetable for the proposed or actual completion of each task and estimated or actual cost for each task, including the actual or estimated project cost.

(c) A certified copy of the governing body's authorization for submission of the application which contains the following information:

(i) name of the governing body;

(ii) name of the individual authorized to sign the application;

(iii) certification of the recording officer.

(d) An affirmative action work plan which details the applicant's commitment to the affirmative action program and includes the following:

(i) designation of an affirmative action representative;

(ii) a municipal policy statement; and

(iii) a project description.

(e) A statement that the construction, operation, monitoring and maintenance of the landfill gas management system will be implemented in accordance with the new source performance standards or emission guidelines of the United States Environmental Protection Agency (USEPA) landfill gas rule, 6 NYCRR Part 208 (formerly 6 NYCRR Part 360-2.21), if applicable, and 6 NYCRR Part 360 for new facilities in effect six months prior to Department receipt of the application, to the extent such requirements apply to the landfill site.

(f) The original application package must be submitted to:

Director
Division of Solid & Hazardous Materials
NYSDEC
625 Broadway
Albany, New York 12233-7250
Attn: Landfill Gas Management System State Assistance Application

One complete copy of the application package must be submitted to the Regional Solid & Hazardous Materials Engineer in the Region in which the landfill gas management system project is located.

(5) Department review.

(a) The State will provide assistance in the order of the initial date of receipt of an approved application for State assistance for a landfill gas management project in the Albany, New York Office, unless funds are not available for reimbursement.

(b) The date the application is received by the Department will be considered the application receipt date. Applications received on a Sunday, Saturday, a holiday when State offices are closed, or after 4:30 p.m., local prevailing time, on any business day will be considered received on the next business day.

(c) The Department will do an initial review for completeness. Any application that is deemed to be substantially incomplete will be returned to the applicant and must be resubmitted (the original receipt date may not be retained).

(d) If applicable, the following criteria may be considered in reviewing the application for funding:

(i) the urgency of need to provide State assistance payments for the landfill gas management system project in relation to the provision of monies for other project needs in the state known at the time the application is reviewed;

(ii) any adverse environmental impact resulting from the municipal landfill, including the effects on groundwater or air quality; and

(iii) the ability of the municipality to pay for the costs of the project.

(6) State Assistance Contract. Upon approval of a State assistance application, a municipality must enter into a contract with the Commissioner on a timely basis. The contract may include but is not necessarily limited to:

(a) provisions for implementation of the approved landfill gas management system project and any amendments;

(b) provisions for reimbursement, including:

(i) a current estimate of the cost of the project; and

(ii) periodic reimbursement for costs incurred during the project.

(c) an agreement by the municipality to:

(i) proceed expeditiously with the project; and

(ii) complete the project in accordance with plans and reports approved by the Department and with the conditions of applicable permits, administrative or judicial orders.

(d) Appendix A - Standard Clauses For All New York State Contracts and Appendix B - Standard Clauses For All New York State Department of Environmental Conservation Contracts, and Appendix C - Document for Reimbursement Claims Made on State Aid Vouchers.

(e) construction schedules;

(f) submittal of requests for reimbursement;

(g) State retainage of up to ten percent of the State assistance until the completed project is reviewed and approved by the Department; and,

(h) the maximum total State assistance which may be awarded for the project under the contract.

(7) Eligible and Ineligible Costs for State Assistance Payments

(a) Eligible costs. Reasonable costs directly related to designing and constructing a landfill gas management system will be considered eligible. Eligible costs include the following to the extent that they are necessary for the actual project construction:

(i) costs for the landfill gas generation investigation, landfill gas generation tests (which can include hood type testing to determine the rate of landfill gas generation) and subsequent analysis;

(ii) costs for preparation of a landfill gas management system engineering report;

(iii) costs for engineering services associated with the preparation of design documents, plans and specifications associated with the landfill gas management system; associated construction inspection services including quality assurance and quality control services during construction; surveying services during construction, surveying services; and, laboratory testing services including the costs associated with collection of samples for such testing;

(iv) costs for construction of landfill gas collection and treatment systems, including vertical gas wells, horizontal gas collector systems or devices, gas collection system headers and associated valving and sampling ports, landfill gas blowers and compressors, gas handling systems, stationary ground type flares, internal combustion engines, turbines and air pollution control devices associated with the landfill gas management system from initial collection through the conversion of landfill gas into a marketable product such as electricity or pipeline quality gas;

(v) cost associated with the design and construction of structures to house or enclose the landfill gas collection and treatment equipment to facilitate maintenance and to minimize related operational noise;

(vi) legal costs for bonding landfill gas management projects and for reviewing contracts with project contractors; and

(vii) costs for other direct capital expenses related to proper design and construction of the solid waste landfill gas management system as approved by the Department.

(b) Ineligible costs include:

(i) costs incurred to develop the landfill gas management system if it is not fully implemented in accordance with plans and reports approved by the Department;

(ii) any costs incurred for preparing and submitting an application if the application is not accepted by the Department;

(iii) costs for which the Commissioner determines funds are not available;

(iv) costs for operating and maintaining the landfill gas management system;

(v) any costs associated with the marketable product, including but not limited to the designing and constructing of electrical or gas line transmission systems and costs associated with the marketing and sale of the processed landfill gas or electrical energy derived from the landfill gas;

(vi) costs incurred before April 1, 1993;

(vii) costs for purchasing air emissions credits;

(viii) any portion of the costs for which federal or other specific assistance has been or will be received;

(ix) cost for activities not approved by the Department; and

(x) costs which have previously been reimbursed under the landfill closure State assistance program.

(8) State Assistance Progress Reviews and Reimbursement Schedules

(a) Requirements for reimbursement. A municipality that has entered into a contract with the Commissioner must:

(i) construct the landfill gas management system according to the schedule(s) included in the contract;

(ii) file progress reports at intervals stipulated in the contract;

(iii) file, on forms prescribed by the Department, for reimbursement at each payment milestone identified in the contract documents; and

(iv) document and certify, when filing for reimbursement, that all submitted costs have been paid by submitting the necessary documentation.

(b) Department Review. The Department will:

(i) review reimbursement requests and either approve or deny payment;

(ii) notify the municipality of denial of payment with an explanation of the reasons for denial; and

(iii) process reimbursement requests expeditiously.

(9) Return of State Assistance for Nonperformance.

(a) If a municipality has failed to comply with the State assistance contract, the Department will:

(i) notify the municipality of the failure; and

(ii) allow the municipality a reasonable time frame, up to a maximum duration of six months, to correct the failure.

(b) Violation of contract. If the failure is not corrected in the time allowed by the Department, the municipality will be in violation of the contract and the Department may:

(i) withhold any future State assistance under the contract; and

(ii) demand immediate repayment of any State assistance received by the municipality.

(c) If the municipal ownership of the landfill and/or the landfill gas management system is transferred to a non-municipal entity, the municipality may be required to repay the State any state assistance received by the municipality under the contract.

Appendix B

A Series of Comments & Answers Relating To The:

State Assistance Funding For Landfill Gas Management System Projects Under the Clean Water/Clean Air Bond Act of 1996 And the Environmental Protection Fund

QUESTION-AND-ANSWER SUMMARY FOR DRAFT DEC POLICY AND GUIDANCE FOR STATE ASSISTANCE TO MUNICIPALITIES FOR ACTIVE LANDFILL GAS COLLECTION AND TREATMENT SYSTEMS.

Question: Can funding assistance be provided for landfill gas collection and treatment systems at Title 3 State Superfund landfill sites, either under this or another funding program?

Answer: Funding assistance would not be provided for landfill sites that fall under the jurisdiction of Title 3 of the State Superfund Program; therefore, landfills that are hazardous waste or in-place toxic sites classified as Classification 1, 2, or 2a would be excluded from funding.

Question: Is there any limit to how much funding assistance a single municipality could obtain under this program? For example, if a municipality has two closed landfills and one active landfill that all meet the eligibility requirements of this funding program, could that municipality receive a total of up to \$6 million for landfill gas systems at these landfill sites?

Answer: A municipality may be entitled to receive up to \$2 million per individual landfill site, as recognized by the Department. Therefore, the example of a municipality having three separate and eligible landfill sites located on three separate noncontiguous sites may be able to receive up to \$6 million in funding.

Question: For the purpose of this funding program, it would be helpful to have a definition of "landfill site." It would seem that separate landfill footprints that are not contiguous (e.g., they could be covered under separate landfill permits/consent orders or be separated by some minimum distance/creek/road or have separate landfill gas collection systems) ought to be eligible for separate funding of up to \$2 million each even if they are located on a single piece of property.

Answer: For the purposes of this funding program, the definitions for “landfill” and “site” will be those contained in 6NYCRR Part 360-1.2(b)(95) and (154). The definition of “site” contained in 6NYCRR Part 360 reads as follows: “the geographically contiguous property of a solid waste management facility and includes the land area of that facility and its access roads, appurtenances and land buffer areas.” Therefore, if a municipality has two separate landfill footprints located on one “site” the maximum funding available to this municipality would be up to \$2 million.

Question: What type of landfill is the Department intending on covering with the term “operating landfill”? It would make sense that the term be restricted to landfills that accept predominantly MSW and not other solid wastes.

Answer: The Department’s intent is not to limit funding to only municipal solid waste landfills. For example, a municipally owned construction and demolition debris landfill that is required to collect landfill gas for odor or emission control could qualify for funding under this program if all requirements have been met.

Question: What is the purpose of separating the requirements for active and closed landfills? Don’t they produce the same landfill gas and wouldn’t the air quality benefit from covering these emission in an equivalent manner?

Answer: The purpose of separating the requirements for active and closed landfills is simply a matter of different requirements stipulated under the two funding sources. As currently written, the ECL states that Clean Water/Clean Air Bond Act of 1996 funds may be used for operating landfills and the Environmental Quality Bond Act funds can only be used for closed landfills. Future legislative changes would be required to ease the funding process with respect to these requirements.

Question: The Department should prioritize the use of the grant funds to maximize the reduction in landfill gas emissions and therefore the environmental benefits. Therefore, since the future emissions from an operating landfill will be over a longer term than from a closed landfill, the funding priority should favor operating facilities.

Answer: At the present time, we plan to fund applications on a first-come, first-served basis. Limited staff resources dictate that applications must be evaluated as they are submitted, and each application will be reviewed to ensure that it meets all requirements of the program.

Question: What is meant by the phrase “the municipality must have full responsibility for the landfill gas management system for the life of the project?” For example, which of the following scenarios would be eligible for funding under this program?

Scenario 1. A municipality owns the landfill, pays for installation of the landfill gas system, but the landfill gas system is operated by a private company pursuant to a contract with the municipality.

Scenario 2. A municipality owns the landfill, and a private company pays for installation of the landfill gas system and operates it pursuant to a lease/operating agreement with the municipality.

Scenario 3. A municipality owns and operates the landfill, including the landfill gas system, but contracts with one or more private companies for gas system maintenance services.

Answer: Within the context of this policy, responsibility means the municipality is liable for continued operation and maintenance of the landfill gas management system for the useful life of the landfill gas management system, regardless of whether the landfill gas management system is operated by a private entity. The following responses address the scenarios described above:

Scenario 1. The Department would reimburse the municipality for the cost of designing, purchasing and installing an approved landfill gas system excluding operational costs under this scenario.

Scenario 2. Since the municipality would have paid out no money for the installation of the system, they would be ineligible for reimbursement.

Scenario 3. If the municipality paid for the design, purchase and installation of the landfill gas management system, they would be eligible for reimbursement. Operation and maintenance costs of gas management systems are ineligible for reimbursement under this program.

Question: What length of time must a facility stay municipally owned to qualify for reimbursement?

Answer: The intent of this policy was to require municipal ownership of the facility and the landfill gas management system for the lifetime of the system. However, since we realize that municipal facilities may be sold to private entities, we have language in both the policy and the landfill gas management system contract which will address the return of monies to the State in the event of transfer of ownership.

Question: As currently drafted, the requirement to have a landfill gas management system that conforms with Part 208 and the current Part 360 requirements could prevent or discourage municipalities from obtaining State assistance for closed landfills and for landfill gas collection systems that have already been installed.

(a) Is that the intent?

(b) Could separate eligibility and design requirements be established for closed landfills under the Title 5/Article 54 program and for active landfills under the Title 4/Article 56 program? Such an approach could benefit the environment by providing State funding

for realistically achievable improvements in landfill gas systems at closed landfills, without requiring compliance with all of the current Part 360 and Part 208 requirements.

Answer: It is the Department's intent to uphold the provisions of the Environmental Conservation Law, specifically §54-0505.1 that mandates that any municipality receiving monies under Title 5 must comply with solid waste regulations in effect six months prior to the date of submission of the final application. Thus, a municipal landfill which chooses to implement the design requirements of Part 208 prior to the mandatory emission thresholds being met would be eligible for State assistance. Likewise, because Article 56, Title 4 applies to active landfills, all current regulatory requirements must also be met.

Question: Is the intent of establishing a six-month lapse in the Part 360 regulations to allow the facility to develop the landfill gas recovery system under a known system of regulations?

Answer: As referenced above, the six-month requirement is mandated by the Environmental Conservation Law.

Question: Would the Department consider allowing a grant application procedure for a two-step process? The intent of this process would be to determine quickly and with minimal expenditure of public time and resources if the proposed project merits more detailed examination/consideration. The first step could involve a two or three page application form that describes key aspects of the proposed project, including a preliminary project cost estimate for budgetary purposes. The date the Department receives this completed application form - which would not require any detailed reports or attachments - in most cases would serve as the grant application date. Based on review of the initial application form, the Department could issue a conditional or tentative determination that the proposed project is eligible for funding. The second step in the application process could then involve the submission of the detailed application and Department approval of the project - similar to the information requirements set forth in Section 4(a) of the draft guidance.

Answer: A two-step process, as proposed, is under review by the Department in an effort to streamline the process. The policy as written would allow for such a process to evolve.

Question: The Department should consider adding a provision to the application procedure section of the policy requiring any municipality which plans to market a product resulting from gas recovery and treatment, regardless of product form (electricity, methanol) to submit an economic feasibility study which would demonstrate a positive return on their investment.

Answer: We agree with this suggestion, and the policy includes language which addresses this issue.

Question: The Department should reserve the right to require submission of a landfill gas investigatory information and analysis and a separate demonstration of air quality improvement, but it should not require both items from all applicants. For example, it seems evident that every active landfill receiving predominantly mixed municipal solid waste in New York State would benefit from a gas management project (i.e., improved air quality, odor control). Such analyses and demonstrations should only be required when it is deemed necessary, such as for landfills that received low amounts of biodegradable waste and for older, closed landfills that may be on the downward side of the gas generation curve.

Answer: The Department has decided to not require as part of the State assistance application a demonstration of air quality improvement from the landfill gas management system. However, the Department will require the submission of information required under Section 4(a)(i) of the policy.

Question: Can the Department accept Title V air reports in lieu of this requirement?

Answer: As described above, the Department does not intend to require a demonstration of air quality improvement as a component of the State assistance application.

Question: If landfill gas systems already installed are eligible for funding, what affirmative action requirements (if any) would apply to such completed projects? Furthermore, how will municipal force account work comply with the affirmative action requirements?

Answer: If a project has already been completed, and affirmative action requirements were not met, it would not preclude the municipality from receiving monies under this program. Furthermore, affirmative action requirements are guidelines, and failure to meet these guidelines does not necessarily preclude a municipality from eligibility in this program, especially with respect to municipal force account work.

Question: Is it the Department's intent to use this funding program to impose more stringent requirements on landfills that are otherwise exempt – due to low disposal capacity or low NMOC emissions - from some of the NSPS and Part 208 requirements?

Answer: While some landfill owners may volunteer to implement landfill gas controls prior to the NSPS or Part 208 criteria/thresholds being met, it is not our intent to make this a requirement. The policy is written to allow latitude with respect to this.

Question: Will any date or dates be established for the submission of grant applications?

Answer: The date the application is received in the Albany Office will be considered the date of application for this program.

Question: What constitutes an “approvable” grant application? Instead of using such a broad term at this key point in the application process (i.e., the determination of the applicant's place in line for funding), would the Department consider adopting a two-step application procedure

as described above? This would seem to expose the Department to less criticism from applicants in the long run, since the application date would generally be based on a relatively straightforward determination (based on the Department's review of an applicant's answers to a short fill-in-the-blanks initial application form) instead of an interpretation of what is considered to be "approval."

Answer: The Department is currently evaluating the merits of a two-step review process.

Question: Municipalities that took the time and initiative and previously submitted a request for a landfill gas grant should be allowed to use the date of that request as their application receipt date, for purposes of establishing their place in line for funding under this program.

Answer: It is our intention that applications already submitted will retain their original application date.

Question: Why is this program proposing to give preference to facilities which have caused adverse environmental impacts over facilities which have operated in a manner which has not caused environmental impacts? Doesn't this reward the polluters for non-compliance?

Answer: It is our intent to fund projects on a first-come, first-served basis. However, the Department may advance an application based on a significant environmental impact that may be remedied through installation of a gas management system.

Question: How will the municipality be required to determine its ability to pay for the costs of the project?

Answer: This is a reimbursement program. If a municipality is unable to pay for the costs of the project up front, then the municipality may not participate in the program.

Question: We assume that the development of a landfill gas-to-electric project by the New York State Power Authority on behalf of a local municipality would meet all the State assistance contract requirements? Not all of the traditional competitive bidding processes required under General Municipal Law are required of a project developed by the Power Authority.

Answer: The New York State Power Authority contracts do require the applicant to comply with General Municipal Law in the acquisition of services for these projects.

Question: Excluding the 10 percent retainage check, how many State reimbursement checks would be provided to a successful applicant?

Answer: It is the Department's plan to limit the reimbursement payments to three checks. One for work completed at the signing of the contract, a second milestone selected about midway through the project and a third at the end of the project. The purpose of these milestones is

to limit the amount of staff time devoted to the review of reimbursement requests. These milestones are flexible and can be negotiated by the applicant.

Question: Are all costs associated with preparation of the landfill gas grant application reimbursable, as long as the grant application is completed and accepted by the Department for funding?

Answer: Section 7(a) of the policy itemizes eligibility of incurred costs, which include the cost of preparing and submitting an application if the application is accepted by the Department.

Question: How will in-kind services be treated? It will be difficult for projects to accurately address the variables of the cost of installation of landfill gas wells or collection trenches. Is it feasible to establish a set eligible cost per foot that you can assign for wells or collection piping? This will minimize disagreements over the cost of the currently installed collection systems. Will this program pay for dead wells or watered-out gas collection trenches?

Answer: In-kind services will be reimbursed as long as the municipality can adequately document the costs of those services. We cannot set a cost per foot for wells or collection piping because this is a reimbursement program. This program will not reimburse an applicant for equipment that is no longer usable or functional.

Question: This list of eligible engineering services should include inspection services, quality assurance/quality control services during construction, surveying services during construction and laboratory testing including the collection of samples for such testing.

Answer: It is the Department's intent to include all adequately documented engineering and other related service costs as being eligible costs. The policy has been written to clearly address this.

Question: Does the Department intend to provide funding for any of the following costs:

- (a) Construction materials for gas collection lines, including but not limited to piping, filter fabric, and drainage materials?
- (b) Air operated leachate pumps and well type systems installed for the purpose of gas collection?
- (c) Landfill cap and gas venting layers that are part of an active landfill gas management system?
- (d) Candlestick flares?
- (e) Electric generation switchgear required to convert landfill gas generated electricity into a product that can be marketed to the local electric grid or another end user?
- (f) Electricity meters?
- (g) Equipment and ancillary facilities necessary to safely deliver landfill gas generated electricity to the local electric grid or another end user?
- (h) Tariff costs and fees charged by utilities or energy supply companies?

- Answer:
- (a) Yes, if the costs can be shown to be related to the active collections system.
 - (b) Possibly, if the equipment installed is integral to the gas collection system. No, if the equipment installed is integral to the leachate collection system.
 - (c) No, this funding program is for active gas collection systems and does not cover the costs of the required components of a landfill cap.
 - (d) No, however, if a candlestick flare is proposed as part of an approved landfill closure plan, the Department could fund the applicable costs associated with installation of the flare under the State assistance program for landfill closure.
 - (e) No, electric generation switchgear would not be reimbursable.
 - (f) No, electric meters are not eligible.
 - (g) No, equipment and ancillary facilities used to deliver electricity to the electric grid would not be eligible.
 - (h) No, tariff costs and fees charged by utilities or energy supply companies would not be eligible.

Question: In determining the project's eligible costs, how will the availability of other grants, fees, or payments be handled?

Answer: The State assistance funding under this program will need to be reduced by the amount of monies received from other sources.

Question: What is the frequency of interim progress reporting that is required? The development of these projects can be undertaken in less than one year or over many years. What type of reporting is expected for the phased development of a multi-year project?

Answer: Progress reports will be required when the applicant files for reimbursement.