

PROPOSED

6 NYCRR Part 369

State Assistance Projects

PART 369

STATE ASSISTANCE PROJECTS

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SUBPART 369-1

GENERAL PROVISIONS

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Section 369-1.1 Purpose

This Subpart sets forth the application, review, and contracting procedures for the state assistance grant programs for municipal waste reduction, recycling, household hazardous waste collection and disposal, beverage container assistance, targeted priority area municipal waste reduction and recycling projects pursuant to Title 7 of Article 54 of the Environmental Conservation Law (ECL), and nonhazardous municipal landfill closure and municipal landfill gas management projects pursuant to Title 5 of Article 54 of the ECL.

Section 369-1.2 Applicability

(a) This Part applies to requests for funding through grant opportunities provided in the ECL for:

(1) municipal waste reduction, recycling, household hazardous waste collection and beverage container assistance capital projects detailed in Subpart 369-2;

(2) education, promotion, planning and coordination costs related to municipal waste reduction and recyclables recovery programs as detailed in Subpart 369-3;

(3) education, promotion and disposal costs related to municipal household hazardous waste collection, processing and disposal programs as detailed in Subpart 369-4;

(4) targeted priority area municipal waste reduction and recycling projects as detailed in subpart 369-5;

(5) nonhazardous municipal landfill closure projects as detailed in Subpart 369-6; and

(6) nonhazardous municipal landfill gas management projects as detailed in Subpart 369-7.

(b) An eligible applicant is a municipality, which includes one or more of the following: a county, city, town, village, local public authority or public benefit corporation, Native American tribe or nation residing within New York state, or school district or supervisory district. In addition:

(1) for a beverage container assistance project, a not-for-profit organization also qualifies as an eligible applicant; and

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(2) for landfill closure and landfill gas management projects, a state agency, state public authority or state public benefit corporation also qualifies as an eligible applicant.

Section 369-1.3 Contract requirements

(a) Upon approval by the department of a grant application, an eligible applicant must execute a contract with the department in order to obtain state assistance.

(b) Contracts for state assistance between the department and an eligible applicant will be in a form provided by the department.

(c) Any grantee under a state assistance contract must undertake and complete the project as set forth in the state assistance contract and, in addition to the requirements of this Part, must adhere to any requirements and conditions set forth in the contract.

Section 369-1.4 Payment requirements

(a) Under a contract for state assistance, a grantee may periodically request up to 50 percent reimbursement of the eligible costs of completed portions of the project, and, in the case of a landfill closure project, a municipality with a population less than 3,500, as determined by the federal decennial census at the time of contract, may periodically request up to 90 percent reimbursement of the eligible costs of completed portions of the project. Payment requests are to be submitted to the department in a form prescribed by the department and must contain all information required by the department.

(b) Only expenses determined by the department to satisfy the terms of the contract will be reimbursed. For landfill closure and landfill gas management projects, 10 percent of the approved reimbursement amount will be retained by the state until the completed project is reviewed and approved by the department.

(c) The grantee is required to submit a certificate of completion, in a form prescribed by the department, accompanying the final payment request for the project. The final payment request will be considered incomplete until the department receives the certificate of completion.

(d) The department may conduct inspections of the project or request a presentation by the applicant for planning, promotional and educational projects or household hazardous waste collection and disposal projects before making a determination for final payment approval.

(e) Payment under the state assistance contract will be made only after approval by the department.

Section 369-1.5 Additional requirements

State assistance toward the cost of an eligible project:

(a) will not exceed 50 percent of the eligible project cost or in the case of a landfill closure project, 90 percent of the eligible cost for a municipality with a population less than 3,500 as determined by the federal decennial census at the time of contract;

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- (b) will not exceed two million dollars;
- (c) will be reduced by the amount of any other grants, including matching funds, for the project received by the municipality from any source; and
- (d) is subject to final computation and determination by the department upon completion of the project, and will not exceed the maximum eligible cost set forth in the contract.

Section 369-1.6 Return of state assistance for nonperformance

(a) The following acts constitute cause for the suspension or termination of any obligation of the department under a state assistance contract executed pursuant to this Part:

(1) Failure to undertake or complete a project funded in whole or part by a state assistance contract.

(2) Failure to make satisfactory progress, as determined by the department, on a project funded in whole or part by a state assistance contract.

(3) Failure to continue implementation and operation of a project funded in whole or part by a state assistance contract.

(4) Changes in the use of the project, or any portion thereof, without the prior written approval of the department.

(b) If the municipal ownership of processing equipment or other similar items, property, the landfill and/or the landfill gas management system, is transferred to a non-municipal entity, the municipality may be required to repay any state assistance received by the municipality under the contract, as determined by the department.

SUBPART 369-2

MUNICIPAL WASTE REDUCTION, RECYCLING, HOUSEHOLD HAZARDOUS WASTE COLLECTION AND BEVERAGE CONTAINER ASSISTANCE CAPITAL PROJECTS

- 369-2.1 General application procedures**
- 369-2.2 Eligible projects**
- 369-2.3 Application components**
- 369-2.4 Ineligible costs**

Section 369-2.1 General application procedures

- (a) An eligible applicant, upon the approval of its governing body, may submit an application to the department, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project. The procedures in this section are only applicable to funding provided pursuant to this Subpart.
- (b) An application shall be limited to eligible costs incurred no more than one calendar year before the date the application is received by the department.
- (c) Applications will be reviewed in the order received. If sufficient funding is not available at the time of application review, applications approved under this Subpart will be held in order of submittal until funding becomes available.
- (d) Acceptance of an application or determination by the department that an application is complete is not to be interpreted as a guarantee or promise of funding from the department.
- (e) Applications will be reviewed and may be approved, disapproved or recommended for modification by the department, consistent with the requirements of this Part.

Section 369-2.2 Eligible Projects

- (a) Eligible projects can include municipal waste reduction projects, recycling projects, household hazardous waste collection projects and beverage container assistance capital projects.

(1) Eligible municipal waste reduction projects may include planning and educational or promotional activities intended to increase public awareness of methods to prevent the generation of waste, including, but not limited to, the reuse of certain materials, substitution of non-toxic household products, and the promotion of backyard composting.

- (2) Eligible recycling projects may include:

- (i) recyclables recovery equipment purchases;

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- (ii) recyclables recovery programs; and
- (iii) source separation equipment.

(b) For municipal waste reduction and recycling projects, the project must be expected to continue for at least 10 years for vehicles and equipment or 30 years for structures, unless otherwise approved by the department.

(c) The project must be designed to serve a substantial portion of the applicant's population or handle a significant portion of the waste stream.

Section 369-2.3 Application requirements

The following must be included in an application for a capital project for which an eligible applicant seeks state assistance under this Subpart:

(a) An application cover page signed by a duly authorized representative of the applicant. The application cover page must also designate a project contact person who is available to answer technical or administrative questions regarding the project application.

(b) A project description of the proposed project, including, but not limited to, the following:

(1) Overall objectives or goals of the applicant in seeking to complete the project, such as:

(i) new solid waste management program components to be initiated;

(ii) quantitative improvements in existing solid waste management program components, such as:

(a) increases in tonnages collected;

(b) increases in sectors covered by recyclables recovery programs; or

(c) increases in participation rates.

(iii) qualitative improvements in existing waste reduction, recycling and household hazardous waste program components, such as:

(a) greater collection or processing efficiency; or

(b) improved services.

(iv) other program goals or objectives.

(2) Categories or types of recyclables or household hazardous waste or containers to be managed by the project, including tonnages of materials anticipated to be recovered during the life of the project.

(1) Service area of the project, including:

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(i) a complete description and a map including, if applicable, locations of central aggregation or processing facilities and any satellite locations or equipment; and

(ii) location, population and demographic descriptions, including data on the number and types of households, as well as any commercial, industrial and institutional facilities to be served by the project.

(4) Major components of the project, detailing methods, schedules, equipment, and services required for each subsystem, including but not limited to:

(i) separation methods, including but not limited to, source separation before curbside pickup or at a drop-off location and separation of recyclables at a recyclables or other materials handling and recovery facility;

(ii) collection routes, schedules, equipment and personnel required for recyclable materials collection and aggregation;

(iii) processing design, including:

(a) design and operational capacities of the project equipment;

(b) number and design of structures;

(c) overview of all existing and planned equipment;

(d) floor plans and equipment layout; and

(e) description of basic operation of all equipment;

(iv) methods of preparing collected materials for market such as crushing, baling, chipping, granulating, composting, anaerobic digestion, or methods for handling, processing and storing household hazardous waste collected; and

(v) methods to be employed for protecting recyclables or other materials from contamination and deterioration such as protecting paper from sun, precipitation and contamination from other recyclable or non-recyclable materials, or methods to be employed to ensure proper management of collected household hazardous waste.

(5) A description of the marketing procedures to be used for sale or distribution of recyclables containers or digestate compost.

(6) A description of processes and procedures to be used for minimizing the generation of non-marketable residues, and a description of processes to be used for the handling and management of residues.

(7) A description of the public education and promotion program to be used to facilitate maximum public participation in the project.

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(8) An implementation schedule, including:

- (i) a timetable for the completion of all phases of the project; and
- (ii) the estimated useful life of the project and its components.

(c) A description of the consistency of the proposed project with the department-approved Comprehensive Recycling Analysis (CRA) or Local Solid Waste Management Plan (LSWMP) in effect for the municipality in which the project is located.

(1) If the project is not included in a department-approved CRA or LSWMP, the project will be considered ineligible for state assistance funding under this Part, with the following exceptions:

(i) a project for state assistance located completely within the boundaries of a planning unit that has submitted a draft CRA or LSWMP to the department for review, where that planning unit is determined by the department to be making substantial progress towards completing the CRA or LSWMP;

(ii) an applicant that has, in the department's judgment, been prevented by unique circumstances from completing a CRA or LSWMP in a timely fashion; or

(iii) an applicant for a beverage container assistance project.

(d) A project budget, including the following information:

(1) An itemized list of all equipment, materials, and services for which state funding is requested, including, for each item on the list:

(i) estimated costs;

(ii) summaries of use/projected use;

(iii) actual/projected purchase dates; and

(iv) vendor specifications and equipment brochures, or bid specifications issued by the applicant.

(2) For projects that involve structures and facilities, an estimate of other related eligible project costs necessary for completion of the project, including:

(i) engineering and architectural services (up to a maximum of 10 percent of total facility costs) including surveys, plans and specifications, and construction oversight and supervision.

(ii) legal and consultant services;

(iii) land acquisition;

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(iv) other direct capital costs; and

(v) force account work necessary for the project limited to site preparation, facility construction, and engineering, architectural, legal, or other professional services.

(3) For any force account work, a cost comparison between the alternatives of using a municipal work force and equipment and non-municipal alternatives.

(4) For any leased or rented items used during site preparation and construction activities, an explanation of the necessity for leasing or renting the equipment.

(5) Identification of all eligible costs for the project.

(6) A description of any state, federal, or other financial assistance for this project, received directly or indirectly or pending and any rebates or refunds or cost recovery associated with the project.

(e) A copy of the municipality's local source separation laws or ordinances adopted pursuant to General Municipal Law (GML) Section 120-aa and a description of efforts undertaken to date to implement such law or ordinance.

(1) If the applicant is a public authority, a public benefit corporation, a school district or a supervisory district, the applicant must provide a copy of the local laws or ordinances adopted pursuant to GML Section 120-aa within the applicant's service area.

(2) If the applicant is a Native American tribe or nation, the applicant must describe waste reduction and recycling efforts undertaken within the applicant's service area.

(f) Certification as to title of the property on which the project is to be located, including a legal description in a format prescribed by the department attesting to the applicant's ownership of all properties to be used in the project.

(1) This requirement applies if the project, or project component, includes buildings or structures, or if a fixed location will be used as a waste drop-off, collection, or processing location.

(2) This requirement does not apply to projects consisting only of curbside containers, collection vehicles or mobile equipment.

(3) If the applicant does not own the property where the project is to be undertaken and does not intend to acquire title to the property, documentation must be provided as evidence that the applicant has authorization to use and maintain the property for the useful life of the project (e.g., a lease agreement or similar document).

(4) If the project involves land acquisition, a valid purchase agreement may be substituted for certification required by this subdivision. However, no payment will be allowed for any project under this subpart until all land acquisition necessary for the project is completed and proof of recording is provided to the department.

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(g) Certification that all equipment and construction materials/services are purchased in accordance with the GML and other applicable laws and regulations, signed by a duly authorized representative of the applicant.

(h) Appropriate Minority/Women's Business Enterprise and Equal Employment Opportunity (M/WBE-EEO) documentation as required by state law.

(i) A description of all local, state, or federal permits or authorizations required for the project.

Section 369-2.4 Ineligible costs

(a) The following costs are ineligible for state assistance:

(1) vehicles or other equipment not fully dedicated to recyclables collection, processing or transportation;

(2) equipment used for street, sewer or drainage cleaning, repair or maintenance;

(3) vehicles or other equipment used in the course of road work or sewer work;

(4) maintenance or operational equipment, including but not limited to, hand tools and power tools;

(5) road service or repair of equipment;

(6) engineering services related to individual equipment design, specification, or selection;

(7) non-principal charges for any municipally owned equipment or facilities purchased through a lease-purchase or other similar agreement;

(8) construction or improvements of facilities that are not directly related to waste reduction or recycling activities, household hazardous waste facilities or beverage container projects;

(9) general infrastructure (e.g., roadways, water and sewer lines and facilities, exterior natural gas lines or exterior electric service), when the infrastructure is located outside the property boundaries of the applicable project site;

(10) ordinary program and facility operating costs, including, but not limited to, purchase of leaf collection bags, office supplies and equipment, equipment service, office maintenance, internet service, telephone, utilities, mileage costs, travel expenses, and fuel, or other similar expenses;

(11) costs related to the collection, processing, transportation, marketing or use of waste tires, used oil, or construction and demolition debris;

(12) bonus payments to contractors;

(13) damage payments or settlements paid to claimants;

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- (14) costs incurred in preparing and submitting an application for state assistance;
 - (15) costs of bonding and interest payments;
 - (16) cost for replacement of equipment or facilities previously funded by the department;
- and
- (17) unnecessary or unreasonable costs as determined by the department.

SUBPART 369-3

**MUNICIPAL WASTE REDUCTION AND RECYCLING
EDUCATION, PROMOTION, PLANNING AND COORDINATION PROJECTS**

- 369-3.1 General application procedures**
- 369-3.2 Eligible Projects**
- 369-3.3 Application components**
- 369-3.4 Ineligible costs**

Section 369-3.1 General application procedures

(a) A municipality, upon the approval of its governing body, may submit an application to the department, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project. The procedures outlined in this section are only applicable to funding provided pursuant to this Subpart.

(b) Department receipt and processing of applications.

(1) A municipality may submit only one application for state assistance for each calendar year for all eligible municipal waste reduction and recycling education, promotion, planning and coordination costs expected to be incurred during that year.

(2) Applications will be accepted by the department during the months of August, September and October of each calendar year for the following calendar year period. All applications must be postmarked during this three-month period. Applications postmarked after October 31 of each calendar year, other than those submitted pursuant to paragraph 369-3.1(b)(3) of this Subpart, will not be accepted and will be returned to the applicant. All complete applications received by the department during the three-month period specified in this paragraph will be considered to have been received simultaneously.

(3) If an application is determined by the department to be incomplete, the applicant will be notified by the department, and the application may be revised and resubmitted at the discretion of the department. The department, at its own discretion, will establish a deadline for resubmission of the application, which in no instance will exceed 30 days after notification that an application is incomplete.

(4) The department is authorized, at its own discretion, to combine applications from municipalities in overlapping jurisdictions.

(5) Only applicants who submit complete applications, as determined by the department, will be eligible for state assistance contracts and payments.

(6) Acceptance of an application or determination by the department that an application is complete is not to be interpreted as a guarantee or promise of funding from the department.

(7) Complete applications will be evaluated by the department and, if acceptable, will be approved for state assistance for up to 50% of eligible costs. If there are insufficient funds to provide 50% reimbursement to all applications, the department may either lower the percentage or set a dollar maximum on the level of funding to be provided to each municipality. In the event the department lowers the maximum reimbursement percentage, the lowered percentage or dollar maximum will be the same for all municipalities that submit a complete application during the application period specified in paragraph 369-2(b)(2) of this Subpart.

(c) A project application will be reviewed and may be approved, disapproved or modified by the department consistent with the requirements of this Part.

Section 369-3.2 Eligible projects

Eligible projects for state assistance under this Subpart include planning, educational and promotional activities to increase public awareness of and participation in waste reduction and recycling. Projects may include costs for recycling coordination, publications, education and outreach for recycling and waste reduction.

Section 369-3.3 Application requirements

The following must be included in an application for state assistance for eligible projects defined in Section 369-3.2 of this Subpart:

(a) An application cover page signed by a duly authorized representative of the municipality. The application cover page must also designate a project contact person who is available to answer technical or administrative questions regarding the project application.

(b) A project description that describes the proposed project, including, but not limited to, the following:

(1) overall objectives or goals of the applicant in seeking to complete this project, such as:

(i) new municipal program components to be initiated;

(ii) measurable quantitative improvements in existing program components based on a minimum of the three previous years of data, such as:

(a) decreases in waste generation and collection;

(b) increases in participation rates; and

(c) increases in sectors covered;

(iii) qualitative improvements in existing program components based on a minimum of the three previous years of data, such as:

(a) greater program efficiency; and

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(b) improved services and information provided to target audiences; and

(iv) other program goals or objectives.

(2) Service area of the project, including, but not limited to, the location, population and demographic descriptions, including data on the numbers and types of households, as well as any commercial, industrial and institutional populations to be served, or planned to be served by the project.

(3) The scope of work, detailing methods, schedules, and services required, including, but not limited to:

(i) overview of work to be performed;

(ii) individual work tasks defined in sufficient detail to describe the basic methods, procedures, and steps that will be followed; and

(iii) a listing of work products (e.g., brochures, mailers, advertisements, promotional items, etc.) to be developed by this project and their projected usage.

(4) An implementation schedule, including:

(i) monthly milestones intended to assess project progress;

(ii) projected accomplishments including all work, work tasks and work products to be undertaken in the project; and

(iii) the estimated duration or frequency of each work task of the project.

(c) A description of the consistency of the proposed project with the department-approved Comprehensive Recycling Analysis (CRA) or Local Solid Waste Management Plan (LSWMP) in effect for the municipality in which the project is located.

(1) If the project is not included in a department approved CRA or LSWMP, the project will be considered ineligible for state assistance funding under this Part, with the following exceptions:

(i) a project located completely within the boundaries of a planning unit which has submitted a draft LSWMP or CRA to the department for review, where the planning unit is determined by the department to be making substantial progress towards completing the CRA or LSWMP; or

(ii) an applicant that has, in the department's judgment, been prevented by circumstances beyond its control from completing the LSWMP or CRA.

(d) A project budget, including the following information.

(1) An itemized list of estimated eligible project costs necessary for completion of the

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project and acceptable to the department, including the following.

(i) Educator/Coordinator costs, such as:

(a) personal services, limited to the salary of a project coordinator and other integral personnel. The total costs for personnel will be limited to an amount equal to the actual non-personnel education and promotion costs of the project. All personnel must be employees of the applicant and assigned to the project for no less than 50 percent of their full-time work schedule; and

(b) fringe benefits for the project coordinator and other integral personnel assigned to the project for no less than 50 percent of their full-time work schedule. These costs must be based on a percent factor, acceptable to the department, multiplied by the eligible salary amount.

(ii) Costs for consultant services for education, promotion, planning, public relations, or other specialized purposes, provided that the municipality demonstrates to the satisfaction of the department why the municipality does not use municipal employees or volunteers to provide these services.

(iii) Costs for supplies and materials specifically acquired and used as part of the municipal waste reduction and recycling education, promotion, planning and coordination project;

(iv) Work product production costs; and

(iv) Other direct non-capital costs.

(2) Identification of all eligible costs for the project.

(3) A description of any state, federal, or other financial assistance for this project, received directly or indirectly or pending for this project or of any rebates or refunds or cost recovery associated with the project.

(e) A copy of the municipality's local source separation law or ordinance adopted pursuant to General Municipal Law (GML) Section 120-aa and a description of efforts undertaken to date to implement such law or ordinance:

(1) if the applicant is a public authority, a public benefit corporation, a school district or a supervisory district, the applicant must provide a copy of the local laws or ordinances adopted pursuant to GML Section 120-aa within the applicant's service area; or

(2) if the applicant is a Native American tribe or nation, the applicant must describe waste reduction and recycling efforts undertaken within the applicant's service area.

(f) Certification that all services for this project are solicited and procured in accordance with the GML and other applicable laws, signed by a duly authorized representative of the municipality.

(g) Appropriate Minority/Women's Business Enterprise and Equal Employment Opportunity (M/WBE-EEO) documentation as required by state law.

Section 369-3.4 Ineligible costs

(a) The following costs are ineligible for state assistance:

(1) costs of any item not primarily used for educating, promoting, planning and coordinating the benefits or methods of waste reduction, reuse and recycling;

(2) ordinary operating costs for facilities and offices, including, but not limited to, office supplies and equipment, equipment service, office maintenance, internet service, telephone (except for dedicated recycling "hotlines"), utilities, mileage costs, travel expenses, and fuel within an applicant's service area or other similar costs or expenses, as determined by the department;

(3) indirect, overhead or in-kind costs;

(4) costs incurred in preparing and submitting an application for state assistance; and

(5) unnecessary or unreasonable costs as determined by the department.

SUBPART 369-4

**MUNICIPAL HOUSEHOLD HAZARDOUS WASTE
COLLECTION AND DISPOSAL PROJECTS**

- 369-4.1 General application procedures**
- 369-4.2 Eligible projects**
- 369-4.3 Application requirements**
- 369-4.4 Ineligible costs**

Section 369-4.1 General application procedures

(a) A municipality, upon the approval of its governing body, may submit an application to the department, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project. The procedures outlined in this section are only applicable to funding provided pursuant to this Subpart.

(b) All applications received after the effective date of this Part are limited to eligible costs incurred during the previous calendar year.

(c) Department receipt and processing of applications.

(1) A municipality may submit only one application for state assistance for each calendar year for all eligible household hazardous waste collection and disposal costs incurred during the previous calendar year.

(2) Applications will be accepted by the department during the months of January and February of each calendar year for the previous calendar year period. All applications must be postmarked during this two-month period. Applications postmarked after February 28th, or 29th in a leap year, of each calendar year, other than those submitted pursuant to the provisions of 369-4.1(c)(3) of this Subpart, will not be accepted and will be returned to the applicant.

(3) If an application is determined by the department to be incomplete, the applicant will be notified by the department and the application may be allowed to be revised and resubmitted at the discretion of the department. The department, at its own discretion, will establish a deadline for resubmission of the application but which in no instance will exceed 30 days after notification of deficiencies.

(4) The department is authorized to require any additional information from an applicant as may be necessary to update a project application.

(5) Only applicants who submit complete applications, as determined by the department, will be eligible for state assistance payments.

(6) Acceptance of an application and determination by the department that an application is complete is not to be interpreted as a guarantee or promise of funding from the department.

(7) Complete applications will be evaluated by the department and, if acceptable, will be approved for state assistance of up to 50 percent of eligible costs. If there are insufficient funds to provide 50 percent reimbursement to all applications the department may either lower the percentage or set a dollar maximum on the level of funding to be provided to each municipality. This lowered percentage or dollar maximum will be the same for all municipalities that submit a complete application during the review period.

(d) A project application will be reviewed and may be approved, disapproved or modified by the department consistent with the requirements of this Part.

Section 369-4.2 Eligible projects

Eligible projects can include reasonable municipal costs, as determined by the department, related to operating household hazardous waste collection programs or operating a household hazardous waste collection and storage facility or mobile collection facility, and associated educational and promotional expenses. It is not necessary that all types of household hazardous waste be collected for the collection program to be eligible.

Section 369-4.3 Application requirements

The following application components, if applicable to the project, are required in applications for a project consisting of municipal household hazardous waste collection and disposal expenses:

(a) An application cover page signed by a duly authorized representative of the municipality. The application cover page must also designate a project contact person who is available to answer technical or administrative questions regarding the project application.

(b) Authorization, by certified resolution or other means acceptable to the department, from the governing body of the municipality for submission of the application. The required number of certified copies of the authorization will be determined by the department. The authorization must:

(1) set forth the authority of the municipality to make an application for state assistance under this Part; and

(2) name an individual, by official title, who is authorized to sign the application and any subsequent contracts between the state and the municipality for state assistance under this Part.

(c) A description of the proposed project, including, but not limited to, the following:

(1) a copy of the event plan (if applicable) required pursuant to Section 362-4.2(a)(3) of this Title;

(2) The dates of the events (or hours of operation) and the service area of the project, including, but not limited to, the location, population and demographic descriptions, including data on the number and types of households served, or projected to be served by the project; and

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(3) The scope of work, detailing methods, schedules, and services provided, including but not limited to:

(i) a listing of education and promotion work products (e.g., brochures, mailers, advertisements, promotional items, etc.) developed under this project and their usage, including electronic copies of all documents and media used to promote the project;

(ii) a description of efforts to coordinate and consolidate household hazardous waste collection programs among municipalities; and

(iii) a description of the use of any innovative or cost-effective methods to manage the collected household hazardous waste.

(d) A schedule of purchases detailing costs for which reimbursement is sought.

(1) Eligible costs include the following, to the extent that they are necessary for program operation:

(i) costs for one or more contractor(s) to accept, segregate, prepare for shipment, or transport household hazardous waste that is brought to the event or facility;

(ii) costs for the actual recycling, treatment, or disposal of collected household hazardous wastes; and

(iii) costs for publicity, promotion, and public education directly related to operating a household hazardous waste collection program; and

(2) A description of any state, federal, or other financial assistance for this project, received directly or indirectly or pending for this project or of any rebates or refunds or cost recovery associated with the project.

(e) A copy of the reports required under section 362-4.5 of this Title.

(f) Certification that all services for this project are solicited and procured in accordance with the General Municipal Law (GML) and other applicable laws, signed by a duly authorized representative of the municipality consistent with this Part.

(g) Appropriate Minority/Women's Business Enterprise and Equal Employment Opportunity (M/WBE-EEO) documentation as required by state law.

(h) A description of all local, state, or federal permits or authorizations required for the project.

Section 369-4.4 Ineligible costs

(a) The following costs are considered ineligible:

(1) costs incurred to conduct a household hazardous waste collection program if it is not

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fully implemented in accordance with the requirements of Subpart 362-4 of this Title;

(2) costs incurred in preparing and submitting an application for state assistance under this section;

(3) costs that were incurred outside of the fiscal year for which the application was submitted to the department;

(4) costs defrayed by federal or other outside funding;

(5) costs related to or for municipal staff and or volunteers;

(6) indirect, overhead or in-kind costs;

(7) costs incurred in securing required permits from the department or any other permitting authority;

(8) program and facility operating costs, including, but not limited to, purchase of office supplies and equipment, equipment service, office maintenance, internet service, telephone, utilities, health and safety equipment and training, mileage costs, travel expenses, and fuel, or other costs as determined by the department;

(9) costs incurred for the collection and disposal of materials that have an established program for statewide take-back, product stewardship or return including, but not limited to used oil, vehicle lead acid batteries, wireless telephones, electronic waste, rechargeable batteries and any other similar materials as determined by the department;

(10) costs incurred from the collection, handling, and disposal of types of waste that, except under extraordinary circumstances would not meet the definition of household hazardous waste, including, but not limited to, explosives, ammunition, emergency flares, empty containers, empty aerosol cans, alkaline batteries, rechargeable batteries, electronic waste, asbestos, bulk metal, white goods, construction and demolition debris, latex paint, empty paint cans, empty propane tanks, empty refrigerant cans, radioactive material, pharmaceutical waste, household medical waste, regulated medical waste, smoke detectors, fire extinguishers, tires, used oil and any miscellaneous materials and packaging received;

(11) costs of a household hazardous waste collection event or events required by the department as part of an enforcement settlement (e.g., environmental benefit project, compliance order, or consent order); and

(12) unnecessary or unreasonable costs as determined by the department.

SUBPART 369-5

**TARGETED PRIORITY AREA MUNICIPAL WASTE REDUCTION AND
RECYCLING PROJECTS**

369-5.1 Purpose and applicability

369-5.2 Application procedures

Section 369-5.1 Purpose and applicability

The department, at its own discretion and upon availability of funds, may from time to time establish targeted state assistance programs for priority area municipal waste reduction and recycling projects or activities. These programs may take various forms as determined by the department to help advance waste reduction and recycling activities and projects in the state. The details of each program including, but not limited to, purpose, scope, eligibility requirements, eligible and ineligible costs, application procedures and evaluation criteria, will be developed and a notice of availability with these individual program requirements will be issued by the department.

Section 369-5.2 Application procedures

(a) Upon availability of funding, the department will issue a notice of availability with the individual program requirements for a state assistance program pursuant to this Subpart. The details of each program and an application filing deadline will be included in the notice of availability.

(b) A municipality, upon the approval of its governing body, may submit to the department an application, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project. The procedures outlined in this section are only applicable to funding provided pursuant to this Subpart.

(1) Each application will undergo an initial review by the department to determine potential project eligibility and compliance with terms set forth in the notice of availability. This initial review is not intended to be a detailed project review to determine full or final eligibility of the project or project costs but instead to eliminate clearly ineligible projects from further consideration. The initial review may include meetings and presentations of project aspects in order for the department to gain an understanding of the project and consequently expedite review.

(2) The department may require any additional information from an applicant as may be necessary to complete a project application. A project application will be reviewed and may be approved, disapproved or modified by the department, consistent with the requirements of this Part.

(3) The department will evaluate, rate, rank or score eligible applications received in accordance with the procedures identified in the notice of availability to determine which, if any,

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of the projects will be funded through the state assistance program.

(c) Upon availability of funding, the department will contact the selected applicant(s) to notify them of their selection and offer to enter into a state assistance contract for the project.

(d) Applications shall consist of the application components in 369-2.3, 369-3.3 or 369-4.3, as applicable to the type of project, in accordance with the criteria specified in the notice of availability.

SUBPART 369-6

NONHAZARDOUS MUNICIPAL LANDFILL CLOSURE PROJECTS

- 369-6.1 General application procedures**
- 369-6.2 Eligible Projects**
- 369-6.3 Application components**
- 369-6.4 Ineligible costs**

Section 369-6.1 General application procedures

(a) A municipality, upon the approval of its governing body, may submit an application to the department, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project defined in section 369-6.2 of this Subpart. The procedures outlined in this section are only applicable to funding provided pursuant to this Subpart.

(b) For projects identified in this Subpart, the department will use pre-application procedures to facilitate the application process. A municipality has the option of submitting either a pre-application or a complete application.

(1) If a pre-application is submitted, it must consist of, at a minimum:

(i) the name and address of the municipality including the name, e-mail address and telephone number of a designated project manager;

(ii) a description of the project; and

(iii) the estimated project cost and amount to be requested, including an itemized list of equipment, materials and services to be procured.

(2) The department will establish and maintain a combined waiting list for qualifying municipal landfill closure projects and landfill gas management projects. The waiting list will be comprised of potentially eligible pre-applications and applications received by the department. An applicant's position on the waiting list is determined by the date on which the department receives the submitted a pre-application that complies with this section or a complete application.

(3) An applicant's position on a waiting list does not constitute, and is not to be interpreted as, a guarantee or promise of funding from the department.

(4) Department processing of applications.

(i) Upon availability of funding, the department will contact applicants in the order they appear on the waiting list, and notify the applicant that they are required to submit a complete final application within 60 calendar days. If the final application or a written request for an extension to submit the application is not received by the department within 60 days, the

department may determine the applicant is no longer eligible for funding.

(ii) The department is authorized to require any additional information from an applicant as may be necessary to complete a project application and maintain a position on the waiting list.

(iii) The department will perform an initial review of all applications received 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 will not be retained.

(c) A project application will be reviewed and may be approved, disapproved or modified by the department consistent with the requirements of this Part.

Section 369-6.2 Eligible projects

Eligible projects include landfill closure costs if the landfill closure project meets the following requirements:

- (a) the landfill is municipally-owned and the municipality is liable for all closure and post-closure activities;
- (b) the landfill ceased receiving waste no later than April 9, 1997;
- (c) the municipal landfill closure project complies with applicable landfill closure requirements as set forth in Part 363 of this Title;
- (d) the municipality waives any right to assistance under section 27-1313 of the ECL; and
- (e) the landfill closure site is not classified as a Classification 1 or Classification 2 site in the Registry of Inactive Hazardous Waste Disposal Sites.

Section 369-6.3 Application components

The following application components are required of applications for a project consisting of municipal landfill closure expenses:

- (a) An application cover page signed by a duly authorized representative of the municipality. The application cover page must also designate a project contact person who is available to answer technical or administrative questions regarding the project application.
- (b) Authorization, by certified resolution or other means acceptable to the department, from the governing body of the municipality for submission of the application. The required number of certified copies of the authorization will be determined by the department. The authorization must:
 - (1) set forth the authority of the municipality to make an application for state assistance under this subpart; and

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(2) name an individual, by official title, who is authorized to sign the application and any subsequent contracts between the state and the municipality for state assistance under this Part.

(c) A copy of the closure investigation report required under Part 363 of this Title, and correspondence from the department indicating the approval status of the report;

(d) A copy of the administrative order, court order or permit condition containing the obligation to close the landfill;

(e) A municipal landfill closure project 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 costs for each task;

(f) A statement that the landfill site is not currently a Classification 1 or Classification 2 site in the Registry of Inactive Hazardous Disposal Waste Sites.

(g) A statement that another landfill will not be constructed on the landfill closure project area.

(h) A statement that post-closure monitoring and maintenance of the landfill site will be implemented in accordance with Part 363 of this Title.

(i) A project budget, consisting of:

(1) an itemized list of all the estimated eligible project costs necessary for completion of the project; and

(2) a description of any state, federal, or other financial assistance for this project received directly or indirectly or pending for this project and of any rebates or refunds or cost recovery associated with the project.

(i) Reasonable costs directly related to designing and constructing a municipal landfill closure project will be considered eligible. Eligible costs include the following, to the extent they are necessary for actual project construction:

(a) costs for preparation of a closure investigation report;

(b) costs for engineering, consultant services, and architectural services;

(c) costs for preparation of plans and specifications;

(d) costs for legal services for bonding landfill closure projects and for reviewing contracts with project contractors;

(e) costs for closure construction; and

(f) costs for other direct capital expenses incident to the municipal landfill closure project as approved by the department.

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(j) Certification that all services for this project are solicited and procured in accordance with the General Municipal Law (GML) and other applicable laws, signed by a duly authorized representative of the municipality consistent with this Part.

(k) Minority/Women's Business Enterprise and Equal Employment Opportunity (M/WBE-EEO) documentation as required by state law.

Section 369-6.4 Ineligible costs

(a) The following costs are considered ineligible:

(1) costs incurred to perform the municipal landfill closure project if it is not fully implemented in accordance with plans and reports approved by the department;

(2) post-closure monitoring and maintenance costs associated with a municipal landfill closure project;

(3) costs for activities associated with development of alternative waste disposal sites or techniques;

(4) costs incurred before April 1, 1993;

(5) costs incurred if the department determines that the landfill closure site is a Classification 1 or Classification 2 site in the Registry of Inactive Hazardous Waste Disposal Sites;

(6) costs incurred to perform the municipal landfill closure project that are inconsistent with or in violation of the procedures and requirements for the state assistance program under Title 5 of article 54 of the ECL, section 56-0403 of the ECL, or other applicable laws;

(7) costs associated with a municipal landfill closure project that does not comply with the landfill closure requirements as set forth in Part 363 of this Title or the applicable regulations in effect six months before the application date for state assistance;

(8) any portion of the cost for which federal, state or other specific assistance has been or will be received;

(9) costs funded under Subpart 369-7 of this Part, Nonhazardous Municipal Landfill Gas Management Projects; and

(10) unnecessary or unreasonable costs as determined by the department.

SUBPART 369-7

NONHAZARDOUS MUNICIPAL LANDFILL GAS MANAGEMENT PROJECTS

369-7.1 General application procedures

369-7.2 Eligible projects

369-7.3 Application components

369-7.4 Ineligible costs

Section 369-7.1 General application procedures

(a) A municipality, upon the approval of its governing body, may submit an application to the department, in a form and containing information as the department may require, for state assistance toward the cost of an eligible project. The procedures outlined in this section are only applicable to funding provided pursuant to this Subpart.

(b) For projects identified in this subdivision, the department will use pre-application procedures to facilitate the application process. A municipality has the option of submitting either a pre-application or a complete application.

(1) If a pre-application is submitted, it must consist of, at a minimum:

(i) the name and address of the municipality including the name, e-mail address and telephone number of a designated project manager;

(ii) a description of the project; and

(iii) the estimated project cost and amount to be requested, including an itemized list of equipment, materials and services to be procured.

(2) The department will establish and maintain a combined waiting list for qualifying municipal landfill gas management projects and landfill closure projects. The waiting list will be comprised of potentially eligible pre-applications and applications received by the department. An applicant's position on the waiting list is determined by the date on which the department receives the submitted pre-application or application.

(3) An applicant's position on a waiting list does not constitute, and is not to be interpreted as, a guarantee or promise of funding from the department.

(4) Department processing of applications.

(i) Upon availability of funding, the department will contact applicants in the order they appear on the waiting list, and notify the applicant that they are required to submit a complete final application within 60 calendar days. If the final application or a written request for an extension to submit the application is not received by the department within 60 days, the department may determine the applicant is no longer be eligible for funding.

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(iii) The department is authorized to require any additional information from an applicant as may be necessary to complete a project application and maintain a position on the waiting list.

(c) A project application will be reviewed and may be approved, disapproved or modified by the department consistent with the requirements of this Part.

(d) The department will perform an initial review of all applications received 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 will not be retained.

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

(1) 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;

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

(3) 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; and laboratory testing services including the costs associated with collection of samples for testing;

(4) 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 valves and sampling ports, landfill gas blowers and compressors, gas handling systems, leak detection and repair to limit methane emissions, 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;

(5) costs 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;

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

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

Section 369-7.2 Eligible projects

Eligible projects include municipal landfill gas management system costs if the landfill gas management system meets the following requirements:

- (a) the site is municipally owned and the municipality is responsible for the continued operation and maintenance of the landfill gas management system for its useful life; and
- (b) the active landfill gas collection and treatment system is in compliance with the design requirements of Part 208 of this Title, if applicable, has been approved by the department, conforms to the requirements set forth in Part 363 of this Title, and is designed to maximize the capture of air emissions from the landfill.

Section 369-7.3 Application components

The following application components are required for applications under this Subpart:

- (a) An application cover page signed by a duly authorized representative of the municipality. The application cover page must also designate a project contact person who is available to answer technical or administrative questions regarding the project application.
- (b) Authorization, by certified resolution or other means acceptable to the department, from the governing body of the municipality for submission of the application. The required number of certified copies of the authorization will be determined by the department. The authorization must:
 - (1) set forth the authority of the municipality to make an application for state assistance under this subpart; and
 - (2) name an individual, by official title, who is authorized to sign the application and any subsequent contracts between the state and the municipality for state assistance under this Part.
- (c) A copy of the landfill gas management system report. This report must include:
 - (1) landfill gas investigatory information and analysis which supports the landfill gas management system project, including an economic feasibility study which demonstrates a positive return on the investment;
 - (2) 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's 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 electricity or a marketable product such as 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; and

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(3) if the applicant does not propose to convert the collected landfill gas to energy, the applicant must include a justification explaining why it is not feasible.

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

(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, Part 208 of this Title, if applicable, and Part 363 of this Title to the extent the requirements apply to the landfill site.

(f) A project budget consisting of:

(1) an itemized list of all estimated eligible project costs necessary for completion of the project; and

(2) a description of any state, federal, or other financial assistance for this project, received directly or indirectly or pending for this project or of any rebates or refunds or cost recovery associated with the project.

(g) Certification that all services for this project are solicited and procured in accordance with the GML and other applicable laws, signed by a duly authorized representative of the municipality consistent with this Part.

(h) Appropriate Minority/Women's Business Enterprise and Equal Employment Opportunity (M/WBE-EEO) documentation as required by state law.

Section 369-7.5 Ineligible costs

The following costs are considered ineligible:

(a) 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;

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

(c) costs associated with design and construction 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;

(d) costs incurred before April 1, 1993;

(e) costs for purchasing air emissions credits;

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

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- (g) costs incurred if the department determines that the landfill closure site is a Classification 1 or Classification 2 site in the Registry of Inactive Hazardous Waste Disposal Sites;
- (h) costs which have previously been reimbursed under Subpart 369-6 Nonhazardous Municipal Landfill Closure Projects; and
- (i) unnecessary or unreasonable costs as determined by the department.