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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26. SOLID WASTE
SUBCHAPTER 15. RECYCLING GRANTS AND LOANS PROGRAM

N.J.A.C. 7:26-15.1 (2009)

§ 7:26-15.1 Scope

This subchapter shall constitute the rules of the Department governing the disposition of grants and loans pursuant to the Recycling Act, *N.J.S.A. 13:1E-92* et seq.

7:26-15.2 Construction

(a) This subchapter shall be liberally construed as to permit the Department to discharge its statutory functions and effectuate the purposes of the law.

(b) The Commissioner may, from time to time, amend, expand or repeal this subchapter in accordance with the provisions of the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq.

7:26-15.3 Practice where these rules do not govern

The Commissioner shall exercise discretion in respect to any matters not explicitly covered by this subchapter.

7:26-15.4 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Clean Communities and Recycling Act, *N.J.S.A. 13:1E-92.1* et seq.

"Applicant" means a county or a municipality submitting an application for a Recycling Tonnage grant pursuant to *N.J.A.C. 7:26-15.5*.

"Collection" means any of a number of procedures by which recyclable materials are collected from residential or commercial sources.

"Commercial source" means apartment buildings with 10 or more dwelling units, farms and wholesale, retail or service establishments including but not limited to restaurants, markets, retail and wholesale outlets, theaters, hotels, warehouses, schools, hospitals, institutions, research facilities, public and private offices, and gas stations.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Conversion" means the physical or chemical process by which recyclable materials are made into an economically valuable raw material or product other than fuel.

"County" means any of the 21 counties in New Jersey.

"Department" means the New Jersey Department of Environmental Protection.

"EDA" means the New Jersey Economic Development Authority.

"Education Fund" means the portion of the State Fund specified by Section 5(b)(5) of the Act.

"Education Grant" means grants awarded by the Department from the Education Fund.

"Market" means a purchaser of recyclable materials.

"Municipality" means any of the forms of local government subdivisions below the county level, including cities, townships, towns, boroughs, or villages located in New Jersey.

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"NJDEP" means the New Jersey Department Environmental Protection.

"Planning and Program Fund" means the portion of the State Fund specified by Section 5(b)(4) of the Act.

"Planning and Program Grant" means any grant awarded by the Department from the Planning and Program Fund.

"Processing" means treating recyclable materials so as to conform to market specifications, including but not limited to separating materials by type, grade or color, crushing, grinding, shredding or baling, or removing contaminants.

"Recyclable materials" means materials generated by residential and commercial sources which can be separated from the solid waste stream for the purpose of recycling.

"Recycling" means any process or processes by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream of raw materials or products.

"Recycling business and industry" means a for-profit business which collects, processes, sells, purchases or converts recyclable materials.

"Recycling Business Loan" means a loan or loan guarantee made from the Recycling Business Loan Fund.

"Recycling Business Loan Fund" means the portion of the State Fund specified by Section 5(b)(2) of the Act.

"Recycling coordinator" means a person designated to organize, supervise or coordinate recycling programs and activities within a county.

"Recycling Tonnage Grant" means any grant awarded by the Department from the Recycling Tonnage Grant Fund.

"Recycling Tonnage Grant Fund" means the portion of the State Fund specified by Section 5(b)(1) of the Act.

"Recipient" means any person to whom monies have been allocated by the Department from any of the Funds established pursuant to the Act, whether or not said person has actually received monies.

"Regional recycling coalition" means an intermunicipal recycling coordinating agency organized under the InterLocal Services Act (*N.J.S.A. 40:8A-1 et seq.*) or through a joint purchasing agreement under the Local Public Contracts Law (*N.J.S.A. 40A:11-10*), or a county-sponsored recycling program serving two or more municipalities within the county.

"Residential source" means houses and apartment buildings with nine or fewer dwelling units, yards and vehicles used for personal transportation.

"State Fund" means the State Recycling Fund established by Section 5(a) of the Act.

"State Program Fund" means the portion of the State Fund specified by Section 5(b)(3) of the Act.

7:26-15.5 Application and award procedure for Recycling Tonnage Grants

(a) Eligible applicants for Recycling Tonnage Grants shall be limited to municipalities and/or counties in the State of New Jersey, except that a municipality or county may, upon vote of the appropriate governing body, authorize a regional recycling coalition to apply on its own behalf, provided that:

1. All materials recycled within a municipality or county and claimed for the purposes of this Act shall be submitted on one application form.

2. The applicant has conformed to all restrictions, prohibitions and obligations of the Act as set forth therein and in this subchapter, including but not limited to the following:

i. Grant funds shall not be used for the purchase, construction or operation of equipment or machinery that will be used to bale waste paper or to shear, bale or shred ferrous or non-ferrous metals.

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ii. No municipality shall enact an ordinance which requires that recyclable materials already collected and recycled under a contract between a commercial source and a recycling business or industry be collected instead by the municipality or its agent, if such contract is in existence on the effective date of such ordinance.

(b) Application for Recycling Tonnage Grants shall be accepted by the Department between January 1 and April 30 of each grant year. Applications shall be made on forms provided by the Department, or electronic means as approved by the Department and shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Planning
PO Box 414
Trenton, New Jersey 08625-0414

(c) Applicants shall be entitled to receive Recycling Tonnage Grants based on the tonnage of recyclable material generated by and recovered for recycling from residential and/or commercial sources within the municipality.

1. Recyclable material generated by residential and commercial sources shall include:

- i. All types and grades of paper and paperboard products;
- ii. All types and grades of glass;
- iii. Ferrous and non-ferrous metals;
- iv. Textiles;
- v. Food;
- vi. Yard materials;
- vii. Plastics;
- viii. Rubber products;
- ix. Used oil; and

x. Additional solid or liquid materials which are non-hazardous which are approved by the Department upon application by the applicant.

2. Only recyclable material which is collected in accordance with all applicable regulation and permit procedures, and documented in accordance with (d) below using one or more of the following procedures shall be considered to be generated within the applicant's jurisdiction and eligible for the purposes of this grant:

i. Curbside pick-up: When the recyclable materials are separated by the source and collected at the curbside or on the premises by a public agency or its contractor, a commercial recycling business, or a volunteer agency, the material shall be credited to the municipality in which the collection occurs.

ii. Drop-off centers: When the recyclable materials are separated by the source and delivered to a municipal or volunteer drop-off center, the material shall be credited to the municipality in which the center is located. However, when the center is sponsored by a county or other regional agency and is specifically designated to serve more than one municipality, the operator(s) of the center shall allocate the quantity of material recycled among the participating municipalities based on the best available data.

iii. Transfer stations and resource recovery facilities: In order for materials separated from mixed solid waste at a transfer station or resource recovery facility to qualify, the approved district solid waste district management plan shall specifically designate such facility to be the recipient of an applicant's solid waste, and shall specifically require that the separation and recovery of recyclables shall occur prior to fuel production or disposal. In these instances, the applicants which generate the material shall be proportionally credited for recycling tonnage based on the best available data.

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iv. Markets: When recyclable materials are separated and delivered by the source directly to a market, the municipality in which such materials are generated shall receive credit for the tonnage recycled.

3. Recyclable material which is generated and collected as specified in (c)1 and (c)2 above shall not be eligible for the purposes of this grant if it is:

i. Landfilled;

ii. Dumped;

iii. Burned or otherwise used for direct energy recovery;

iv. Converted to a fuel or fuel product, except as specifically permitted by the Department upon application by an applicant; or

v. Subject to a deposit or tax imposed by the county or municipality to ensure its return to a collection center.

(d) The tonnage of recycled materials claimed by the an applicant shall be accurately reported to the Department in accordance with the provisions of *N.J.A.C. 7:26-2.13*. Records verifying tonnage claimed shall be maintained by the applicant for a minimum of five years following each grant period. For the purpose of this grant, the following records shall be acceptable subject to review and approval by the Department on a case-by-case basis:

1. Copies of sales or weight slips showing the type and quantity of recyclable materials delivered, the name of the collector, processor or converter to whom the materials were sold or delivered and the date of sale or delivery of the material;

2. A written statement from the commercial generator supported by verifiable information including the type and quantity of material sold to the collector or market for recycling during the grant period, the name and address of the collector or market and the date of the sale of the material;

3. A written statement from a market, transfer station or resource recovery facility declaring the amount of recyclable material originating in and obtained from each municipality and explaining the procedure used to allocate materials among contributing municipalities; or

4. In the case of food and yard materials converted to and used for feed, compost, mulch or fertilizer, a written estimate of the quantity of materials collected and recycled and an explanation of the procedure used by the municipality to estimate the tonnage.

(e) The size of the Recycling Grants to be awarded to each municipality shall be determined in the following manner:

1. Grants awarded shall be based on the number of tons of eligible recyclable material sold or distributed in accordance with (c) and (d) above during the preceding calendar year and shall be calculated in accordance with the following formula, provided that no municipality shall receive more than \$ 10.00 per ton:

$$\text{Award} = R \times T_m / T_s$$

where Award = Dollar value of award to a given municipality or county for the preceding calendar year

R = Total dollar amount allocated to the Recycling Grant Fund as of January 1, in the year in which the application for a Recycling Grant is submitted.

T_s = Total tonnage of eligible recyclable material collected within the State during the preceding calendar year and claimed by all municipalities and counties.

T_m = Total tonnage of eligible recyclable material recycled within a given municipality or county during the preceding calendar year.

(f) Applications shall be made on forms provided by the Department and shall include the following:

1. The name and address of the applicant;

2. A detailed breakdown of the materials collected, including type and quantity;

3. Certifications regarding:

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- i. Tonnage recycled;
 - ii. Origin of materials; and
 - iii. Non-diversion from a pre-existing commercial recycling program.
4. Other information as required by the Department.

(g) Recycling Tonnage Grants may be credited to the general treasury of the applicant and may be used for recycling activities or other purposes subject to the restrictions in (a)2 above.

7:26-15.6 Application and award procedures for Recycling Business Loans

(a) This portion of the Act shall be administered jointly by the Department and the EDA.

(b) Eligible applicants for Recycling Business Loans shall be limited to recycling businesses and industries located in or planning to locate in New Jersey which are engaged in converting recyclables into a raw material, other than energy, processing recyclables to meet final use specifications, or separating commingled recyclables for resale to a market. Applicants shall conform to all restrictions, prohibitions, and obligations of the Act, applicable EDA regulations and guidelines, and all other relevant acts as set forth therein and in this subchapter.

(c) Applications may be made at such times as announced and on such forms as provided by the Department and shall be submitted in triplicate to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Planning
PO Box 414
Trenton, New Jersey 08625-0414

(d) Loans and loan guarantees may be used for the creation or expansion of any legitimate commercial activity involved with the collection, separation, transportation, processing or conversion of recyclable materials as determined by the Department and EDA.

(e) Loans and loan guarantees shall be awarded in accordance with such terms and conditions as set forth by the Department and EDA. No single applicant or project may receive a loan or loan guarantee for less than \$ 50,000 or for more than \$ 500,000. The maximum may be exceeded for certain projects which are deemed necessary by the Department in order to reach the State's recycling goals set forth in the State Solid Waste Management Plan Update: 1993-2000 (Update).

(f) Loans and loan guarantees shall be awarded on a competitive basis.

1. The application shall demonstrate, at a minimum, that:

i. The project promotes the goals and objectives set forth in the State Recycling Plan and applicable district solid waste management plans;

ii. All necessary permits have been obtained or applied for;

iii. The goals, objectives and implementation strategy of the project are clearly stated;

iv. The type, quantity and value of recyclable material to be recovered by the project are reasonable in relation to the investment required;

v. The applicant is able to repay the loan;

vi. The applicant has previous experience in recycling;

vii. The applicant has the ability to manage the project;

viii. The project substantially increases the quantity of recyclable material removal from the waste stream for recycling; and

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ix. Only source separated recyclable materials will be received, stored, processed or transferred at the facility.

(g) Applications shall be made on forms provided by the Department and EDA and shall include, but not be limited to, the following:

1. The name and address of the applicant;
2. The names and addresses of the applicant's principal owners and officers;
3. A detailed project cost breakdown explaining how the funds will be incorporated in the total budget for the entire project; and
4. A description of the type and quality of material to be recycled as a result of the loan or loan guarantee;

(h) The Department shall deny an application for a low-interest recycling business loan if the applicant:

1. Does not submit information required pursuant to (f) above;
2. Does not correct any deficiencies in information submitted pursuant to (f) above within 60 days of receipt of a letter specifying such deficiencies;
3. Does not submit the appropriate fee;
4. Has been denied a license or permit by the Department pursuant to this chapter;
5. Has violated any environmental protection law or regulation, civil or criminal, of this State or any other state or any Federal environmental protection law or regulation, civil or criminal; or
6. Fails to comply with any lawful order of the State.(i) Applicants receiving loans or loan guarantees shall file an annual status report with the Departments for as long as the loan is outstanding, describing the progress being made towards the goals and objectives set forth in the application.

(j) The loan maturity period shall be for a period not to exceed 10 years. The interest rate on each loan when issued shall be established at three points below the prime rate, but in no case shall be less than five percent.

(k) The applicant for the loan or loan guarantee shall pay the following fees:

1. Loan Application Review--\$ 125.00 per application, payable at the time of the application.
2. Loan Closing and Technical Review--\$ 1,441 per loan, payable at closing.
3. Loan Management--\$ 626.00 per loan, payable at the time of closing.
4. Closing fee--\$ 600.00 per loan, payable at time of closing.

7:26-15.7 Application and award procedures for Planning and Programs Grants and Education Grants

(a) Subject to further restrictions contained in (c) below the following shall be eligible to apply for and receive either or both Program and Planning Grants and Education Grants, unless specifically limited to Program and Planning Grants alone or Education Grants alone:

1. Counties, provided that the county has a recycling coordinator during the grant period;
2. Municipalities, provided that the project is not inconsistent with the appropriate county solid waste district management plan(s);
3. Regional recycling coalitions, provided that an ordinance or resolution, as appropriate authorizing application and funding has been approved by the appropriate governing bodies of the coalition members, and that the project is not inconsistent with the appropriate county solid waste district management plan(s);
4. Non-profit groups involved directly with the implementation of recycling or litter abatement programs, provided that the project is not inconsistent with the appropriate county solid waste district management plan(s). Non-profit groups shall be eligible to apply only for Education Grants.

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(b) Applications for Planning and Program Grants and Education Grants shall be made at such time as announced on such forms provided and in accordance with any guidelines issued by the Department. Applications shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Planning
PO Box 414
Trenton, NJ 08625-0414

1. The applicant shall submit a spending plan setting forth the proposed expenditures for which a Planning and Program Grant and/or the Education Grant will be used.

2. The Department shall review the spending plan for consistency with the recommended uses set forth in (d) and (e) below in accordance with the criteria set forth at (f)1 through 3 below, and shall approve the spending plan and award grant moneys unless the spending plan proposes expenditures inconsistent with (d) and (e) below or unless the proposed expenditures fail to satisfy the criteria set forth at (f)1 through (3) below.

(c) Planning and Program Grants and Education Grant applications shall be subject to the following minimum amounts. The Department shall issue such guidelines as are necessary to encourage counties to include provisions in the applications that will allocate grant monies to municipalities which require less than the minimum amounts.

1. For Planning and Program Grant applications, \$ 5,000;
2. For Education Grant applications, \$ 2,000.

(d) Planning and Program Grants may be used for any legitimate administrative, planning or operating expenses associated with publicly sponsored recycling programs, including but not limited to:

1. Staff salaries and fringe benefits;
2. Office expenses;
3. Equipment purchases;
4. Enforcement; and
5. Construction of facilities.

(e) Education Grants may be used for any legitimate expenditures associated with recycling and litter abatement publicity, information and education programs, including:

1. The project will further the goals and objectives of the State Recycling Plan;
2. The project's goals, objectives and implementation strategy are clearly stated;
3. The project is practical and has a high probability of success;
4. The value of the materials to be recovered will be comparable to the size of the grant; and
5. The project substantially increases the quantity of recyclable materials removed from the waste stream and actually recycled.

(f) Planning and Program Grants and Education Grants shall be awarded based on the Department's assessments of factors which shall include but not be limited to the following:

1. The ability of the applicant to successfully implement the proposed project;
2. The relative contribution that the proposal will make toward achieving the State's recycling goals; and
3. The cost effectiveness and innovativeness of the proposed projects.

(g) Applicants receiving either Planning and Program Grants or Education Grants shall file annual progress reports with the Department during the grant year and for two years following receipt of the grant. Applicants who

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receive a Recycling Tonnage Grant pursuant to *N.J.A.C. 7:26-15.5* shall be deemed to have satisfied this requirement.

7:26-15.8 Application and award procedure for Supplementary Projects

(a) The Department may, in its discretion, make available any or all of the monies in the Program and Planning Fund and in the Education Fund which are not used for the grants specified in *N.J.A.C. 7:26-15.7* for Supplementary Projects involving recycling research, program development, program implementation and other related activities. Supplementary Projects may be developed by the Department on its own initiative or in response to proposals submitted by public or private entities.

(b) Awards for Supplementary Projects shall be made giving due consideration to the qualifications of the applicants in view of the nature of the projects. Awards may be made by the Department as grants, contracts, or other forms of disbursement as appropriate for the particular Supplementary Project.

7:26-15.9 Execution of award documents

(a) As concerns Recycling Tonnage Grants, the Department shall prepare and transmit an original and three copies of the award document to the applicant. The applicant shall execute the award document and return it to the Department with an ordinance or resolution of the appropriate governing body, authorizing the signing of the document, naming the person authorized to sign the document and committing the applicant to use the funding in accordance with the terms and conditions of the award document, this subchapter and the Act.

(b) As concerns Planning and Program Grants and Education Grants, the applicant shall submit the spending plan with an ordinance or resolution of the appropriate governing body, authorizing the signing of the spending plan, naming the person authorized to sign the spending plan and committing the applicant to use the funding in accordance with the terms and conditions of the spending plan, this subchapter and the Act.

(c) As concerns loans or loan guarantees made pursuant to the Act, the applicant shall execute the award document. The award document shall be executed by the person(s) having authority to commit the entity receiving the monies to the terms and conditions of the loans or loan guarantees.

(d) The award document shall be deemed to incorporate all requirements, provisions, and information in this subchapter, the Act and all documents and papers submitted to the Department in the application process.

(e) At the time of execution of the award document by the Department and the applicant, the grant, loans or loan guarantees shall become effective and shall constitute an obligation on the Recycling Fund in the amount and for the purposes stated in the award document.

7:26-15.10 Unused monies

(a) All monies which remain unused or unexpended by the Department at the close of the calendar year or which have been withheld or rescinded by the Department shall remain with or be returned to the Fund.

1. Unused monies derived or allocated from the Recycling Grant Fund, Recycling Business Fund or Education Fund shall be added to their respective Funds.

2. Unused monies derived or allocated from the State Program Fund and Planning and Program Fund may be added to their respective funds or to any of the funds in (a)1 above, as the Department in its discretion deems appropriate.

7:26-15.11 Debarment

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(a) Any person or corporation who is debarred, suspended or disqualified from State contracting pursuant to N.J.A.C. 7:1D-2 shall be ineligible to receive State grants, loans or loan guarantees under this subchapter, whether directly or through a contract with a recipient of the State Fund monies.

(b) Recipients shall insert in every contract for work on a project a clause stating that the contractor may be debarred, suspended or disqualified from contracting with the recipient if the contractor commits any of the acts listed in *N.J.A.C. 7:1D-2.2*.

(c) Bid specifications prepared by the recipient shall require submission of a sworn statement by the bidder, or an officer or partner of the bidder, indicating whether or not the bidder is, at the time of the bid, included on the State Treasurer's List of Debarred, Suspended and Disqualified Bidders as a result of action by a State agency other than the Department.

(d) Any person included on the Treasurer's List as a result of action by a State agency other than the Department, who is or may become a bidder, or any contractor who is or will be funded by a grant or loan under this subchapter may present information to the Department, indicating why this section should not apply to such person. If the Commissioner determines that an exception is essential to the public interest and files a finding thereof with the Attorney General, the Commissioner may grant such exception in keeping with the provisions of *N.J.A.C. 7:1D-2.9*.

(e) The Department may suspend or debar any such person, or take such other action as may be appropriate pursuant to N.J.A.C. 7:1D-2.

7:26-15.12 Discriminatory practices

The applicant shall certify that its contractors and their subcontractors are in compliance with the discrimination and affirmative action provisions of *N.J.S.A. 10:2-1* to *10:2-4* and the rules and regulations promulgated pursuant thereto.

7:26-15.13 Procedure for withholding or rescission of grants

(a) The Department may, in addition to any other rights or remedies available pursuant to law, withhold a grant or any portion thereof, for good cause which shall include, but not be limited to, the following:

1. Failure to comply with the provisions of this subchapter, the Act or other applicable State laws or regulations;
2. Failure to meet any condition or specification of the grant;
3. Submission of false or misleading information to the Department.

(b) The Department shall give written notice to the recipient of its intent to withhold or rescind the grant in whole or in part.

(c) The Department shall afford the recipient an opportunity for consultation prior to withholding or rescission of the grant.

(d) The Department, may, after affording the recipient opportunity for consultation, withhold or rescind the grant in whole or in part. The withhold or rescission shall be in writing and effective on the date such action is taken.

(e) The determination to withhold or rescind a grant shall be solely within the discretion of the Department.

7:26-15.14 Return of grants

(a) The recipient of a grant which has been withheld or rescinded by the Department shall refund or credit to the Department the amount of grant monies withheld or rescinded.

(b) The Department shall, upon receipt of the monies, return same to the appropriate Fund in accordance with the provisions of *N.J.A.C. 7:26-15.10*.

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7:26-15.15 Procedure for termination of loans and loan guarantees

(a) Loans and loan guarantees authorized or created by the Act may be terminated by the EDA according to the procedures and guidelines established by that agency in the event of default by the holder of the loan. The term default shall include, but not be limited to:

1. Non-payment or failure to make timely repayment of the loan;
2. Bankruptcy by the holder of the loan;
3. Use of loan or items financed by the loan for purposes other than those stated in the application;
4. Failure to comply with the provisions of this subchapter, the Act or other applicable State laws or regulations;

or

5. Submission of false or misleading information to the Department or EDA.

(b) In the event that a loan or loan guarantee is terminated the monies shall be returned to the Recycling Business Loan Fund.

7:26-15.16 Severability

If any section, subsection, provision, clause or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.