

**CHAPTER 272. MUNICIPAL WASTE PLANNING,
RECYCLING AND WASTE REDUCTION**

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Authority

The provisions of this Chapter 272 issued under section 105(a) of the Solid Waste Management Act (35 P. S. § 6018.105(a)); section 302 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.302); sections 5(a), 304 and 402 of The Clean Streams Law (35 P. S. §§ 691.5(a), 691.304 and 691.402); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20); amended under the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20), amended under section 105(a) of the Solid Waste Management Act (35 P. S. § 6018.105(a)); sections 5(b) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b) and 691.402); section 302 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.302); section 104(a) of the Land Recycling and Environmental Remediation Standards Act (35 P. S. § 6026.104(a)); sections 2(b) and 4(b) of the Infectious and Chemotherapeutic Wastes Law (35 P. S. §§ 6019.2(b) and 6019.4(b)); sections 1905-A, 1917-A, 1920-A and 1937-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17, 510-20 and 510-37); section 207 of the Small Business and Household Pollution Prevention Program Act (35 P. S. § 6029.207); section 15(a) of the act of November 26, 1997 (P. L. 530, No. 57); Environmental Stewardship and Watershed Protection Act, 27 Pa.C.S. § 6105(g); and sections 301 and 302 of the Radiation Protection Act (35 P. S. §§ 7110.301 and 7110.302); amended under section 207(a) of the Small Business and Household Pollution Prevention Program Act (35 P. S. § 6029.207(a)); section 105(a) of the Solid Waste Management Act (35 P. S. § 6018.105(a)); section 4(a) of the Household Hazardous Waste Funding Act (35 P. S. § 6025.4(a)); sections 5(b), 304 and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b), 691.304 and 691.402); section 302 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.302); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20), unless otherwise noted.

Source

The provisions of this Chapter 272 adopted September 13, 1991, effective September 14, 1991, 21 Pa.B. 4179, unless otherwise noted.

Cross References

This chapter cited in 25 Pa. Code § 252.3 (relating to scope); and 25 Pa. Code § 266b.11 (relating to waste management for universal waste mercury-containing devices).

Subchapter A. GENERAL

Sec.

272.1. Scope.

§ 272.1. Scope.

This chapter sets forth rights and responsibilities for host counties which have municipal waste facilities within their boundaries, and requirements for municipalities and counties for municipal waste planning, recycling and waste reduction.

The requirements in this chapter are in addition to the applicable requirements in Chapter 271 (relating to municipal waste management—general provisions).

Source

The provisions of this § 272.1 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226095).

Subchapter B. HOST COUNTIES

Sec.

- 272.101. County withdrawals from trust fund.
- 272.102. Trust requirements.
- 272.103. Failure to make payment.
- 272.104. Operator withdrawals from the trust fund.
- 272.105. County withdrawals from the trust fund for administering the trust fund.
- 272.106. Termination of trust.
- 272.107. Abandonment of the facility.

§ 272.101. County withdrawals from trust fund.

The trustee of a site-specific postclosure trust established under section 1108 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1108) may release moneys from the trust to the county which established the trust upon written request from the county to the trustee in accordance with the Environmental Stewardship and Watershed Protection Act.

Source

The provisions of this § 272.101 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226096).

§ 272.102. Trust requirements.

(a) A trust fund established under section 1108 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1108) shall meet the following requirements:

(1) The trustee shall be a state-chartered or National bank, or financial institution with trust powers or trust company with offices in this Commonwealth and whose trust activities are examined or regulated by a state or Federal agency. The trustee shall have an office located in the county establishing the trust fund.

(i) The trustee may resign by sending written notice to the Department, the county and the operator of the municipal waste landfill, by certified mail, return receipt requested, of its intention to resign. The resignation may not take effect until the following conditions have been met:

(A) The expiration of a 120-day period after the trustee has provided written notice of its intention to resign.

(B) The county has appointed a successor trustee and the successor trustee accepts the appointment.

(ii) If the county fails to appoint a successor trustee or a successor trustee fails to accept the appointment at the expiration of the 120-day period, the trustee may apply to a court of competent jurisdiction for instructions.

(2) The trust shall provide that the operator of the municipal waste landfill and the Department are co-beneficiaries under the trust. The trust may not be subject to assignment, alienation, pledge, attachment, garnishment, sequestration, other legal process or to the claims of creditors.

(3) The trust shall be irrevocable.

(4) The corpus of the trust fund shall consist of moneys paid by the operator of the municipal waste landfill for waste received at the landfill until January 1, 2000, under former section 1108(c) of the Municipal Waste Planning, Recycling and Waste Reduction Act. The payments are computed on the basis of 25¢ per ton, or part thereof, of weighed waste or 25¢ per 3 cubic yards, or part thereof, of measured waste for solid waste received at the landfill for the quarter for which payment was due to be made.

(5) The trustee shall send the Department, in writing on a quarterly basis, a statement of the trust account transactions.

(b) The trustee is authorized to invest and reinvest the principal and income of the trust fund and keep the fund invested as a single fund, without distinction between principal and income. In investing, reinvesting and otherwise managing the trust fund, the trustee shall discharge its duties solely in the interest of the beneficiaries. The trustee shall manage the trust fund with that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with these matters, exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(c) For the purposes of investing or reinvesting the moneys in the trust fund, the trustee is authorized to:

(1) Purchase United States Treasury Bills.

(2) Purchase short-term obligations of the United States Government or its agencies or instrumentalities.

(3) Purchase obligations of the United States or of its agencies or instrumentalities backed by the full faith and credit of the United States.

(4) Purchase obligations of the Commonwealth or its agencies or instrumentalities backed by the full faith and credit of the Commonwealth.

- (5) Purchase obligations of a political subdivision of this Commonwealth or its agencies or instrumentalities backed by the full faith and credit of the political subdivision.
- (6) Purchase shares of an investment company registered under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a64), whose shares are registered under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa) if the only investments of the investment company are those described in this subsection.
- (7) Time or demand deposits of the trustee to the extent insured by an agency of the Federal or State Government.
- (d) Additional options of the trustee are listed in this subsection.
- (1) The trustee may purchase commercial paper and prime commercial paper defined as follows:
- (i) Commercial paper means unsecured promissory notes issued at a discount from par by an industrial, common carrier, public utility or finance company.
 - (ii) Prime commercial paper means notes issued by corporations whose credit has been approved by the National Credit Office, Inc., New York, or its successor.
- (2) The trustee may not purchase commercial paper without first obtaining the following:
- (i) Certification or other evidence the commercial paper is rated prime by the National Credit Office, Inc., or its successor.
 - (ii) Certification or other evidence the commercial paper proposed to be delivered is not subordinate to another debt of the issuer.
 - (iii) Certification or other evidence there is no litigation pending or threatened that would affect the commercial paper.
 - (iv) Certification or other evidence that the issuer is not in default as to payment of principal and interest on one or more of its outstanding obligations.
 - (v) Certification or other evidence the issuer is incorporated in the United States, is transacting business within the United States and has assets of \$1 billion or more, or is a wholly owned subsidiary of a Pennsylvania corporation which has assets of \$1 billion or more.
- (e) The trustee is authorized to hold cash awaiting investment or distribution for a reasonable period of time without liability for the payment of interest thereon.
- (f) The trustee shall annually, at least 30 days prior to the anniversary date of the establishment of the trust fund, furnish to the operator, the county and the Department a statement confirming the value of the trust fund, and the dates and amounts of any payments into the trust from the landfill and withdrawals for administration or a purpose other than investment or reinvestment. The trustee

shall value securities in the trust fund at the lesser of market or par value as of no more than 60 days prior to the anniversary date.

Source

The provisions of this § 272.102 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226096) to (226099).

Cross References

This section cited in 25 Pa. Code § 272.103 (relating to failure to make quarterly payment).

§ 272.103. Failure to make payment.

Under § 272.102(a)(5) (relating to trust requirements), if the trustee notifies the Department that a payment due from the operator of the municipal waste landfill has not been received by the trustee, the Department will immediately, in writing, notify the operator that it shall pay to the trustee the payment due within 15 days of the Department's notification. If the operator fails or refuses to pay to the trustee the payment at the expiration of the 15-day period, the Department will proceed or the trustee may proceed to collect the payment in a manner provided by law.

Source

The provisions of this § 272.103 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226099).

§ 272.104. Operator withdrawals from trust fund.

(a) Withdrawals by the operator may not be made from the trust fund prior to certification by the Department of the closure of the landfill under § 273.203(d) (relating to certification). The Department will provide the trustee with a copy of the certification of closure.

(b) The trustee shall withdraw and pay over moneys from the trust fund to the operator only upon receipt of a written request of the operator. The trustee may not honor the written request of an operator unless the request has been approved by the Department. A payment from the trust to the operator may only be made for remedial measures and emergency actions required by the Department for prevention or abatement of adverse effects on the environment.

(c) Written requests by the operator to the Department for approval of withdrawal of moneys from the trust shall include the following:

- (1) The name of the operator and the identification of the facility for which withdrawal is sought.
- (2) The date of closure of the facility.
- (3) The closure plan for the facility under § 271.113 or § 273.192 (relating to closure plan; and closure plan), or the date the closure plan was previously submitted to the Department or approved by the Department.

- (4) The total amount of the trust corpus, the amount of the withdrawal request and the amount that will remain in trust.
- (5) A revised cost estimate for closure and postclosure care under § 271.331 (relating to bond and trust amount determination).
- (6) A demonstration that the operator has inadequate financial resources to perform the remedial measures or emergency actions for which it is requesting the withdrawal and that the bond issued under the act has been exhausted.
- (d) Written requests made by the operator to the trustee to withdraw and pay over moneys from the trust fund shall include the following:
- (1) The amount requested to be withdrawn.
 - (2) The purpose of the withdrawal.
 - (3) A copy of the Department's written approval.
- (e) When the operator makes a request to the Department for approval of a withdrawal from the trust, the operator shall immediately provide a copy of the request to the county and to the municipality in which the landfill is located. When a written request to withdraw and pay over moneys from the trust fund is received by the trustee, the trustee shall immediately provide a copy of the request to the county and to the municipality in which the landfill is located.
- (f) After the trustee receives notification of certification of closure from the Department, the trustee shall release moneys from a trust for a municipal waste landfill that operated prior to April 9, 1988, and closed shortly thereafter, if the landfill has no closure bond or a closure bond of less than \$10,000 and has not been abandoned for the following postclosure activities, upon written request by the landfill operator and written approval by the Department:
- (1) Placement of wells for water quality monitoring.
 - (2) Placement of gas control devices for gas monitoring.
 - (3) Placement of leachate collection and treatment system.
 - (4) Erosion and sedimentation control.
 - (5) Revegetation and regrading including maintenance of final cover.
 - (6) Access control.
 - (7) Other postclosure activities.
- (g) The trustee, immediately on preparation, shall provide a copy of a document effectuating a withdrawal from the trust fund by the operator to the county, the municipality in which the landfill is located and the Department.

Source

The provisions of this § 272.104 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226099) to (226100).

§ 272.105. County withdrawals from the trust fund for administering the trust fund.

- (a) The county may request the trustee to withdraw and pay over to the county moneys as may be necessary to reimburse the county for actual costs

incurred by the county in administering the trust fund. The county shall provide documentation necessary to satisfy the trustee that the county's request accurately sets forth the actual costs incurred by the county.

(b) Payments to the county for costs incurred in administering the trust fund may not exceed the lesser of the county's actual costs, or 0.5% of the moneys in the trust fund (including the trust corpus, earnings and profits) on the date of the county's request for payment.

(c) After the trustee receives a copy of certification of closure from the Department, payments to the county for costs incurred in administering the trust may not exceed the lowest of the county's actual costs, 0.5% of the moneys in the trust fund (including the trust corpus, earnings and profits) or the earnings and profits from the trust corpus credited during the billing period.

Source

The provisions of this § 272.105 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226100).

§ 272.106. Termination of trust.

(a) The Department will notify the trustee, in writing, of the Department's certification of final closure of the landfill under § 271.342 (relating to final closure certification) and one of the following:

(1) The release of the bond.

(2) The termination of a trust provided for a landfill operated by a municipality solely for municipal waste not classified hazardous, if the municipality has provided the trust in lieu of a bond under § 271.301(c) (relating to scope).

(b) Upon receipt of the notification required in subsection (a), the trustee shall take the necessary steps to terminate the trust.

(c) Upon termination of the trust fund, the remaining trust property, less final trust administration expenses of the trustee, shall be given to the county that established the trust for use in a manner consistent with the Environmental Stewardship and Watershed Protection Act.

(d) A trustee may take the necessary steps to terminate a trust at any time prior to the time stated in subsection (a) if all of the moneys have been withdrawn and paid out in accordance with this subchapter.

Source

The provisions of this § 272.106 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226101).

§ 272.107. Abandonment of the facility.

(a) The Department will certify to the trustee, in writing, the abandonment of the landfill by the operator, or the failure or refusal of the operator to comply with the requirements of the act, the environmental protection acts, regulations thereunder, the terms and conditions of the permit or orders of the Department. The

Department will not make the certification sooner than 30 days after the Department has provided written notice to the operator, the county and the trustee of the Department's intention to make the certification.

(b) Upon the trustee's receipt of the certification, rights, title and interest in the property of the trust will be vested in the Department. The Department may direct the trustee to make disbursements from the trust fund necessary to prevent or abate adverse effects in the environment, or direct the trustee to take the necessary steps to terminate the trust and pay to the Department moneys remaining in the trust together with other property in the trust, less the trustee's final administration expenses. This amount shall be paid into the Solid Waste Abatement Fund, to be used solely for abatement, remediation, closure, postclosure care, monitoring and related costs for that particular landfill.

Subchapter C. MUNICIPAL WASTE PLANNING

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Cross References

This subchapter cited in 25 Pa. Code § 271.1 (relating to definitions); and 25 Pa. Code § 272.321 (relating to scope of grant).

GENERAL PROVISIONS

§ 272.201. Purposes.

The primary purposes of a municipal waste management plan are to:

- (1) Ensure that each county has sufficient processing and disposal capacity for its municipal waste for at least 10 years.
- (2) Ensure a full, fair and open discussion of alternative methods of municipal waste processing or disposal.
- (3) Ensure maximum feasible waste reduction and recycling of municipal waste or source separated recyclable material.
- (4) Shift the primary responsibility for developing and implementing municipal waste management plans from municipalities to counties.
- (5) Conserve resources and protect the public health, safety and welfare from the short- and long-term dangers of transportation, processing, treatment, storage and disposal of municipal waste.

Source

The provisions of this § 272.201 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.202. Advisory committee.

(a) Prior to developing a plan for submission to the Department under this subchapter, the county shall form an advisory committee. The committee shall review the plan during its preparation, make suggestions and propose changes it believes appropriate.

(b) The committee shall include representatives from the following:

- (1) All classes of municipalities within the county.
- (2) Citizen organizations.
- (3) Industry.
- (4) The private solid waste industry operating within the county.
- (5) The private recycling or scrap material processing industry operating within the county.
- (6) The county recycling coordinator, if one exists.
- (7) Other persons deemed appropriate by the county.

Source

The provisions of this § 272.202 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.203. Notice to municipalities.

The county shall provide written notice to municipalities within the county when plan development or plan revision begins. The county shall also provide periodic progress reports to the municipalities concerning the preparation of the plan.

Source

The provisions of this § 272.203 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 271.1 (relating to definitions); 25 Pa. Code § 272.226 (relating to description of recyclable materials); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.204. Format of plans.

(a) Counties shall focus on significant issues and alternatives, and shall reduce paperwork and the accumulation of extraneous background data. A plan shall be clear and concise and shall be supported by evidence that the county has made the necessary analysis. A plan shall be analytic rather than encyclopedic.

(b) A plan shall be developed and implemented in an open and public manner.

(c) A plan shall be written in plain language. Appropriate graphics may be used so that decision makers and the public can readily understand it.

(d) A plan shall be organized and formatted to correspond to §§ 272.222—272.233. A plan shall have a separate section for each of these sections.

(e) A plan shall be specific to the planning area. A plan shall be used as the basis for municipal waste actions by the county and municipalities during the term of the plan. The plan shall be implementable.

Source

The provisions of this § 272.204 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.252 (relating to development of plan revisions).

PLANNING

§ 272.211. General requirement.

A county shall submit to the Department a municipal waste plan revision under this subchapter. For purposes of this subchapter, the term “county” includes cities of the first class, but does not include counties of the first class.

Source

The provisions of this § 272.211 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226104) and (234803).

Notes of Decisions

Information

A county wishing to supplement its list of designated waste disposal sites must comply with the statutory requirements for substantial plan revisions of designated sites. *Department of Environmental Resources v. Washington County*, 629 A.2d 172 (Pa. Cmwlth. 1993); appeal denied 631 A.2d 1611 (Pa. 1993); appeal dismissed 639 A.2d 1171 (Pa. 1994).

Cross References

This section cited in 25 Pa. Code § 271.1 (relating to definitions); and 25 Pa. Code § 272.221 (relating to scope).

PLAN CONTENT

§ 272.221. Scope of plan.

(a) Except as provided in § 272.211 (relating to general requirement), a plan submitted after October 26, 1988, shall comply with this subchapter.

(b) The Department may, in writing, request information from a county not specifically identified in this subchapter that the Department deems necessary to

implement the purposes and provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act and this subchapter.

Source

The provisions of this § 272.221 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (234803) to (234804).

Cross References

This section cited in 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.222. Public participation.

(a) The plan shall contain a complete and detailed explanation of the public's involvement in the development and implementation of the plan. The plan shall demonstrate that it was developed, and will be implemented, in an open and public manner.

(b) For the development of the plan, this explanation shall include, but not be limited to, a list of the members of the advisory committee, minutes of each advisory committee meeting and a summary of other public meetings, hearings and other public information efforts utilized by the county.

(c) For the implementation of the plan, the plan shall include provisions for public participation, including, but not limited to, an advisory committee to provide oversight and advice on the implementation of the plan.

Source

The provisions of this § 272.222 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.223. Description of waste.

(a) The plan shall describe and explain the origin, content and weight or volume of municipal waste currently generated within the county's boundaries, and the origin, content and weight or volume of municipal waste that will be generated within the county's boundaries during the next 10 years. The plan shall also include a statement of the county or other geographical area for which the plan is prepared.

(b) In describing the content of waste, the plan shall specifically address sewage sludge (including septage), infectious and chemotherapeutic waste, ash from resource recovery facilities, construction/demolition waste other than waste from demolition of an industrial site and other municipal waste.

(c) In describing the origin of waste, the plan shall provide:

- (1) An estimate of the number of residential, commercial, municipal and institutional establishments, and community activities within the county, for municipal waste other than the special handling wastes specifically addressed in this subsection.
 - (2) An inventory of public and private sewage treatment plants, including mobile homes, restaurants and hotels, and an inventory of septage haulers serving the county, for sewage sludge (including septage).
 - (3) An inventory of hospitals in the county, and a representative sampling of different medical specialists, such as clinics, doctors, dentists, funeral directors and veterinarians, for infectious and chemotherapeutic waste.
 - (4) An inventory of the facilities serving the county, for ash from resource recovery facilities.
 - (5) An estimate of the amount of construction/demolition waste currently generated within the county's boundaries and that will be generated within the county's boundaries during the next 10 years; and an estimate of the amount of construction/demolition waste that is currently recycled and that could be recycled during the next 10 years.
- (d) In describing the weight or volume of waste, the plan shall provide:
- (1) A total waste generation estimate for the planning area derived from best available National studies, sampling data from similar counties or other reliable information, for municipal waste other than special handling waste described in subsection (c).
 - (2) Sampling or survey data for the planning area, or other reliable information, for the special handling waste described in subsection (c).
 - (3) A detailed analysis, for each type of waste, of the extent to which recycling currently reduces the weight or volume of waste that requires processing or disposal, and the extent to which waste reduction or recycling will reduce the weight or volume of waste that will require processing or disposal within the next 10 years. If less than 35% of the weight or volume of waste will be recycled or reduced, the plan shall contain a detailed justification.
- (e) The plan may also, at the discretion of the county, specifically address one or more of the following:
- (1) Waste tires.
 - (2) Household hazardous waste.
 - (3) Leaf waste, yard waste and other waste suitable for composting.
 - (4) Bulk items from community cleanup days.
 - (5) Other components of municipal waste not described in this section.

Source

The provisions of this § 272.223 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (234804) and (226107).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); 25 Pa. Code § 272.225 (relating to estimated future capacity); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.224. Description of facilities.

- (a) The plan shall identify and describe the following:
 - (1) The facilities where the county's municipal waste is currently being disposed or processed.
 - (2) The remaining available permitted capacity of the facilities.
 - (3) The capacity which could be made available through the reasonable expansion of the facilities.
 - (4) The recycling capabilities of the facilities.
- (b) The plan shall also explain:
 - (1) The extent to which existing facilities will be used for county waste during the life of the plan.
 - (2) How the plan will not substantially impair the use of the remaining permitted capacity of the facilities, or of the capacity which could be made available through the reasonable expansion of the facilities. Substantial impairment occurs if a county ceases to use a facility that is currently receiving municipal waste generated in the county, and the county also interferes with, or attempts to interfere with, the facility's efforts to find other municipal waste customers. Measures directing municipality waste to a different facility do not constitute interference with the existing facility's efforts to find other customers.
- (c) The plan shall give consideration to the potential expansion of existing facilities located in the county.
- (d) For purposes of this section, an "existing facility" is a municipal waste processing or disposal facility which meets either of the following conditions:
 - (1) The facility was designated to receive waste in the existing county plan.
 - (2) The facility has submitted a complete permit application as of the date of the notice of plan revision.
- (e) A facility will not be considered an "existing facility" under subsection (d) if it meets one or more of the following:
 - (1) Its status as an existing facility depends wholly or partly on the filing of a permit application, and the application is denied by the Department.
 - (2) Its status as an existing facility depends wholly or partly on the holding of a permit under the act, and the permit is revoked or suspended, or the Department requires the facility to cease receiving waste, based on violations of the act, the environmental protection acts, regulations thereunder, the terms or conditions of its permit, or an order issued by the Department.

(f) In developing its plan under this subchapter, a county may consider a proposed or operating municipal waste processing or disposal facility that is not described in this section.

Source

The provisions of this § 272.224 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226107) to (226109).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plan); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.225. Estimated future capacity.

(a) The plan shall estimate the processing or disposal capacity needed for the municipal waste that will be generated in the county during the next 10 years. This estimate shall be based on the analysis performed under § 272.223 (relating to description of waste), and may not include waste or source separated recyclable material that will be recycled.

(b) The plan shall describe the primary variables affecting this estimate and the extent to which they can reasonably be expected to affect the estimate, including, but not limited to, the amount of residual waste disposed or processed at municipal waste disposal or processing facilities in the county and the extent to which residual waste may be disposed or processed at these facilities during the next 10 years.

(c) The plan shall consider the impact of compliance with the regulations of the Department relating to residual waste in determining the estimate.

(d) If during the development of a plan revision, the county determines that additional processing or disposal capacity is needed by the county, the county shall give public notice of the determination and solicit proposals and recommendations regarding facilities and programs to provide the capacity. The county shall provide a copy of the notice to the Department, which will submit a copy of the notice to be published in the *Pennsylvania Bulletin*.

Source

The provisions of this § 272.225 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226109) to (226110).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.226. Description of recyclable materials.

(a) The plan shall describe and evaluate:

- (1) The kind and weight or volume of materials that could be recycled, giving consideration, at a minimum, to the following materials: clear glass, colored glass, aluminum, steel and bimetallic cans, high grade office paper, newsprint, corrugated paper, plastics, other marketable grades of paper and leaf waste.
 - (2) Potential benefits of waste reduction or recycling, including the potential solid waste reduction and the avoided cost of municipal waste processing or disposal.
 - (3) Existing materials recovery operations and the kind and weight or volume of materials recycled by the operations, whether public or private.
 - (4) The compatibility of recycling with other municipal waste processing or disposal methods, giving consideration to and describing anticipated and available markets for materials collected through municipal recycling programs.
 - (5) Proposed or existing collection methods for recyclable materials.
 - (6) Options for ensuring the collection of recyclable materials.
 - (7) Options for the processing, storage and sale of recyclable materials, including market commitments.
 - (8) Options for municipal cooperation or agreement for the collection, processing and sale of recyclable materials.
 - (9) A schedule for implementation of the recycling program for mandated municipalities and other parts of the county.
 - (10) Estimated costs of operating and maintaining a waste reduction and recycling program, estimated revenue from the sale or use of materials and avoided costs of processing or disposal. This estimate shall be based on a comparison of public and private operation of some or all parts of the recycling program.
 - (11) What consideration for the collection, marketing and disposition of recyclable materials will be accorded to persons engaged in the business of recycling on the date that the county issued its notice of plan revision under § 272.203 (relating to notice of municipalities) whether or not the persons are operating for profit.
 - (12) A public information and education program that will provide comprehensive and sustained public notice of waste reduction and recycling program features and requirements.
- (b) A county containing municipalities that are required by Subchapter E (relating to municipal recycling programs) to implement recycling programs shall take the provisions of that subchapter into account in preparing the recycling portion of its plan. For these counties, the plan shall:
- (1) Identify the municipalities that have mandatory or voluntary recycling programs.
 - (2) Identify municipalities that have delegated to the county their responsibilities under Subchapter E.

(3) Explain how recycling under the plan will be coordinated with, and will not interfere with, municipal recycling under Subchapter E.

(c) Nothing in this subchapter prohibits the preparation of a county municipal waste management plan revision prior to developing and implementing a recycling program required by Subchapter E, nor does this subchapter prohibit the preparation or implementation of a municipal recycling or waste reduction plan prior to the approval of the county plan revision.

Source

The provisions of this § 272.226 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226110) to (226111).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.227. Selection and justification of municipal waste management program.

(a) The selection and justification of the municipal waste management program, as required by this section, is the most important part of the plan. The plan shall explain in detail how alternatives were identified and evaluated, the advantages and disadvantages of each alternative and how each facility or program was selected. The plan shall explain in detail the role of the advisory committee in this process.

(b) The plan shall describe the type, mix, size, expected cost and proposed methods of financing the facilities, recycling programs or waste reduction programs that are proposed for the processing and disposal of the municipal waste or source separated recyclable materials that will be generated within the county's boundaries during the next 10 years.

(c) For every proposed facility, recycling program or waste reduction program, the plan shall:

(1) Explain in detail the reason for selecting the facility or program.

(2) Describe alternative facilities or programs, including, but not limited to, waste reduction, recycling or resource recovery facilities, municipal waste landfills, or other programs, that were considered. The plan shall provide reasonable assurances that the county utilized a fair, open and competitive process for selecting the facilities or programs from among alternatives which were suggested to the county. Nothing in this section requires the county to utilize a request for proposals or a bidding process to identify or select alternatives, nor does it require a county to select the alternative with the lowest cost.

(3) Evaluate the environmental, energy, life cycle cost and costs of transportation to each facility considered, and the economic advantages and disadvantages of the proposed facility or program as well as the alternatives considered.

(4) Show that adequate provision for existing and reasonably anticipated future recycling has been made in designing the size of a proposed facility. The plan shall explain whether put-or-pay contracts will be used to guarantee waste to a particular facility. If put-or-pay contracts are proposed, the plan shall explain in detail how use of the contracts will not interfere with or inhibit recycling in the county.

(5) Set forth a time schedule and program, by month and year, for planning, design, siting, construction and operation of each proposed facility or program.

(d) A landfill or resource recovery facility selected by a county for capacity assurance shall be considered “provided for” in that county’s plan under section 507 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.507).

Source

The provisions of this § 272.227 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226111) to (226112).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); 25 Pa. Code § 272.228 (relating to location); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.228. Location.

The plan shall identify the location of each municipal waste processing or disposal facility and each recycling program identified in § 272.227 (relating to selection and justification of municipal waste management program). For a site not yet chosen, the plan shall explain how the site will be chosen.

Source

The provisions of this § 272.228 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226113).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.229. Implementing entity identification.

The plan shall identify a governmental entity that will be responsible for implementing the plan on behalf of the county and describe the legal basis for that entity's authority to do so.

Source

The provisions of this § 272.229 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.230. Public function.

(a) If the county determines that it is in the public interest for municipal waste processing or disposal to be a public function, the plan shall:

- (1) Provide for appropriate mechanisms.
- (2) Demonstrate that the equipment is not available to the program in the private sector if mechanical processing equipment for recyclable materials will be purchased by the county.

(b) The plan shall state if the county proposes to own or operate a municipal waste processing or disposal facility. The plan shall also explain the basis for the proposal, giving consideration to the comparative costs and benefits of private ownership and operation of municipal waste processing or disposal facilities.

Source

The provisions of this § 272.230 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.231. Implementing documents.

(a) The plan shall include proposed ordinances, negotiated contracts or other requirements that will be used to implement the plan and that will be used to ensure sufficient available capacity to properly dispose or process municipal waste that is expected to be generated within the county for the next 10 years, including requirements that will be used to ensure the operation of facilities proposed in the plan. The ordinances, contracts or other requirements shall include:

- (1) County ownership, operation or control of the facilities with the available capacity.
- (2) Contracts between the county and one or more persons for the right to use the facilities with the available capacity.

(3) Third-party contracts for the right to use the facilities with the available capacity.

(4) Waste flow control ordinances or other legal instruments directing waste to a particular facility, if applicable.

(b) The ordinances, contracts or other requirements required by subsection (a) shall be in final form and ready for approval or signature without further significant modification. For each ordinance, contract or other requirement, the plan shall identify the areas of the county to be affected, the expected effective date and the implementing mechanism. As used in this section, "sufficient available capacity" includes facilities not in existence for which the county has binding commitments.

(c) The plan shall state if the county proposes to require, by means other than contracts, that municipal wastes generated within its boundaries be processed or disposed at a designated facility under section 303 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.303). The plan shall explain the basis for the proposal, giving consideration to alternative means of ensuring that waste generated within the county's boundaries is processed or disposed of in an environmentally acceptable manner.

Source

The provisions of this § 272.231 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 271.201 (relating to criteria for permit issuance or denial); 25 Pa. Code § 272.204 (relating to format of plans); 25 Pa. Code § 272.244 (relating to Departmental review of plans); 25 Pa. Code § 272.245 (relating to submission of implementing documents); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.232. Orderly extension.

The plan shall provide for the orderly extension of municipal waste management systems in a manner that is consistent with the needs of the area. The plan shall also be consistent with existing State, regional or local plans affecting the development, use and protection of air, water, land or other natural resources, including municipal waste management plans approved by the Department. The plan shall also take into consideration planning, zoning, population estimates, engineering and economics.

Source

The provisions of this § 272.232 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.233. Facilities developed pursuant to sub-county plans.

The plan shall explain how it will not interfere with the design, construction, operation, financing or contractual obligations of a municipal processing or disposal facility, including a reasonable expansion of an existing facility, which is part of a complete municipal waste management plan submitted to the Department by a municipality or organization of municipalities under the act prior to September 26, 1988, and approved by the Department.

Source

The provisions of this § 272.233 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226115) to (226116).

Cross References

This section cited in 25 Pa. Code § 272.204 (relating to format of plans).

PLAN REVIEW PROCEDURES**§ 272.241. Public notice of plan availability.**

(a) Upon completion of a proposed plan, the county shall publish a notice in a newspaper of general circulation in the county. The notice shall:

- (1) Contain a brief description of the proposed plan, including at a minimum a description of the type and location of existing and proposed processing and disposal facilities that will be used, and waste reduction and recycling programs that will be used.
- (2) Indicate where copies of the plan may be reviewed.
- (3) State that a person may submit comments on the plan to the county within 90 days of the date of the notice, with the specific reasons for the comments, and state the procedure for submission of comments.
- (4) State the time, place and date for at least one public hearing on the proposed plan, which shall be held prior to the end of the 90-day period.
- (5) Be in the form of a display advertisement, and run twice over 2 consecutive weeks.

(b) At the same time that the newspaper notice under subsection (a) is published, the county shall submit copies of the proposed plan for review to the Department, municipalities within the county, county or multi-county planning agencies and the county health department, if one exists. In submitting copies of the proposed plan, the county shall state that it will receive comments, with the specific reasons for the comments, for 90 days after the date of the newspaper notice.

Source

The provisions of this § 272.241 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.242 (relating to adoption and ratification of the plan); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.242. Adoption and ratification of the plan.

(a) After the end of the comment period specified in § 272.241 (relating to public notice of plan availability), the county shall make appropriate revisions to the plan and shall prepare a document containing written responses to comments made during the comment period. The plan submitted to the governing body of the county shall include the response document.

(b) The governing body of the county shall adopt the plan within 60 days after the end of the public comment period under § 272.241.

(c) Within 10 days following adoption of the plan by the governing body of the county, the plan shall be sent to municipalities within the county for ratification.

(1) If a municipality does not act on the plan within 90 days of its submission to each municipality, it shall be deemed to have ratified the plan.

(2) If more than one-half of the municipalities, representing more than one-half of the county's population as determined by the most recent decennial census by the United States Bureau of the Census, ratify the plan, the county, within 10 days of ratification, shall submit the plan to the Department for approval. A municipality ratifying a plan shall immediately transmit a copy of its resolution of ratification to the county and the advisory committee.

(d) A municipality may not decline to ratify a proposed county plan unless the municipality's resolution of disapproval contains a concise statement of its objections to the plan. A resolution of disapproval that does not contain a concise statement of objections shall be considered a ratification. A municipality declining to ratify a plan shall immediately transmit a copy of its resolution of disapproval to the county and the advisory committee. A conditional approval shall be considered a disapproval.

Source

The provisions of this § 272.242 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

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Notes of Decisions*Information*

A county municipal waste plan must identify and describe the following: facilities where the county's municipal waste is currently being disposed or processed as well as facilities located within the county whether the waste is currently being disposed of there or not. A county may consider a proposed or operating municipal waste processing or disposal facility that is not required by § 272.224(a) to be described in developing its plan under this subchapter. *Tinicum Township v. Department of Environmental Protection*, 1996 EHB 816.

Cross References

This section cited in 25 Pa. Code § 272.243 (relating to failure to ratify plan); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.243. Failure to ratify plan.

(a) If the plan is not ratified as provided in § 272.242(d) (relating to adoption and ratification of the plan), the county shall meet with the advisory committee to discuss the reasons that the plan was not ratified. The advisory committee shall submit a recommendation concerning a revised county plan to the county within 45 days after it becomes apparent that the plan has failed to obtain ratification. The advisory committee's recommendation shall specifically address the objections stated by municipalities in their resolutions of disapproval of the county plan.

(b) The governing body of the county shall adopt a revised plan within 75 days after it has become apparent that the original plan has failed to obtain ratification. Within 5 days following adoption of a revised plan by the governing body of the county, the plan shall be sent to municipalities within the county for ratification.

(1) If a municipality does not act on the revised plan within 45 days of its submission to the municipality, it shall be deemed to have ratified the plan.

(2) If more than one-half of the municipalities, representing more than one-half of the county's population as determined by the most recent decennial census by the United States Bureau of the Census, ratify the revised plan, the county, within 10 days of ratification, shall submit the revised plan to the Department for approval.

(c) A municipality may not decline to ratify a proposed revised county plan unless the municipality's resolution of disapproval contains a concise statement of its objections to the plan. A resolution of disapproval that does not contain a statement of objections shall be considered a ratification. A municipality shall immediately transmit a copy of its resolution of disapproval to the county. A conditional approval on the second municipal ratification shall be considered an approval.

(d) If the plan is not ratified as provided in subsection (b), the county shall submit the revised plan to the Department for approval. The revised plan shall be submitted within 10 days after it is apparent that the plan has failed to obtain

ratification and shall be accompanied by the county's written response to the objections stated by municipalities in the resolutions of disapproval.

(e) For purposes of this section, a plan shall be considered ratified on the date when a majority of municipalities, representing a majority of the population, have ratified the plan, regardless of the applicable ratification period.

(f) For purposes of this section, it will be considered apparent that a plan has failed to obtain ratification on the earliest of the following dates:

- (1) The date on which the number of municipalities, or municipalities with sufficient population, that have failed to ratify the plan ensures that the plan cannot be ratified.
- (2) The date on which the applicable ratification period has expired.

Source

The provisions of this § 272.243 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.244 (relating to Departmental review of plans); and 25 Pa. Code § 272.252 (relating to development of plan revisions).

§ 272.244. Departmental review of plans.

(a) Within 30 days after receiving a complete plan revision, including a plan revision submitted under § 272.243(d) (relating to failure to ratify plan), the Department will approve, conditionally approve or disapprove it. If the Department gives written notice to the county that additional time is necessary to complete its review, the Department will have 30 additional days to render a decision. A nonsubstantial plan revision will be deemed approved within 30 days of receipt by the Department, unless the Department responds in writing.

(b) The Department will approve a county plan that demonstrates to the satisfaction of the Department that:

- (1) The plan is complete and accurate and consistent with the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations thereunder.
- (2) The plan provides for the maximum feasible development and implementation of waste reduction and recycling programs.
- (3) The plan provides for the processing and disposal of municipal waste in a manner that is consistent with the requirements of the act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations thereunder.
- (4) The plan provides for the processing and disposal of municipal waste for at least 10 years.
- (5) If the plan proposes that municipal waste generated within the county's boundaries to be required, by means other than contracts, to be processed or

disposed at a designated facility under § 272.231(c) (relating to implementing documents), the plan explains the basis for doing so.

(6) If the plan proposes that the county own or operate a municipal waste processing or disposal facility, the plan explains the basis for doing so.

(c) A plan approved by the Department will, at a minimum, ensure and contain the following conditions:

(1) The county shall implement the plan that was submitted to the Department in accordance with the provisions of the plan and conditions contained in a conditional approval.

(2) The county shall adhere to the schedule in the approved plan for planning, designing, siting, construction or operation of municipal waste processing or disposal facilities, and waste reduction or recycling facilities or programs.

(3) The county may not act in a manner contrary to the approved plan or otherwise fail to act in a manner consistent with the approved plan.

(d) The Department will publish notice of plan approval under this section in the *Pennsylvania Bulletin*.

Source

The provisions of this § 272.244 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226119) to (226120).

Cross References

This section cited in 25 Pa. Code § 272.251 (relating to submission of revisions).

§ 272.245. Submission of implementing documents.

(a) Within 1 year following approval of a plan by the Department, the county shall submit to the Department copies of executed ordinances, contracts or other requirements to implement its approved plan and that will be used to ensure sufficient available capacity to properly dispose or process municipal waste that is expected to be generated within the county for the next 10 years.

(b) The ordinances, contracts or other requirements shall be the same in form and content as those submitted under § 272.231 (relating to implementing documents), except that the documents submitted under this section shall be executed, enacted or otherwise in full force and effect.

(c) Within 30 days after receipt, the Department will notify the county in writing if the documents do not adequately implement the approval plan. After the expiration of the 30-day review period, the Department will not issue a municipal waste landfill or resource recovery facility permit under the act unless the facility meets the requirements of § 271.201 (relating to criteria for permit issuance or denial). This subsection does not affect the Department's ability to issue or deny permits under § 271.201.

Source

The provisions of this § 272.245 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226120) and (238971).

Cross References

This section cited in 25 Pa. Code § 272.252 (relating to development of plan revisions); 25 Pa. Code § 273.139 (relating to relationship to county plans); and 25 Pa. Code § 283.112 (relating to relationship to county plans).

PLAN REVISIONS**§ 272.251. Submission of revisions.**

(a) A county with an approved municipal waste management plan shall submit a revised plan to the Department in accordance with this subchapter at the earliest of the following events:

- (1) At least 3 years prior to the expiration of the capacity assurances necessary to dispose or process the municipal waste generated in the county.
- (2) At least 3 years prior to the expiration of the term of the county's approved plan.
- (3) When otherwise required by the Department.

(b) A county with an approved municipal waste management plan may submit a revised plan to the Department in accordance with this subchapter at any other time.

(c) A proposed plan revision will be reviewed by the Department under the criteria in § 272.244 (relating to Departmental review of plans) to the extent that the plan is affected by the proposed revision.

Source

The provisions of this § 272.251 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended November 28, 1997, effective November 29, 1997, 27 Pa.B. 6190; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (238971) to (238972).

§ 272.252. Development of plan revisions.

(a) A county shall provide written notice to the Department when plan revision development begins. The notice shall describe the proposed plan revisions the county intends to undertake, including a description of how capacity will be assured for the remainder of the planning period.

(b) Within 30 days after receipt of written notice submitted under subsection (a), the Department will notify the county if it determines the proposed revision is substantial.

(c) A county submitting a plan revision shall comply with:

- (1) Sections 272.221—272.233 (relating to plan content), to the extent changes from the approved plan are proposed.

- (2) Sections 272.201, 272.202 and 272.204 (relating to purposes; advisory committee; and format of plans).
- (3) Section 272.203 (relating to notice to municipalities). At least 30 days before submitting a proposed, nonsubstantial plan revision to the Department, the county shall submit a copy of the proposed revision to the advisory committee and each municipality within the county. A summary of comments received from the advisory committee and municipalities shall be included with the submission of a nonsubstantial revision to the Department.
- (d) If the plan revision is determined to be substantial, the county shall also:
- (1) Comply with §§ 272.202, 272.241—272.243 and 272.245.
 - (2) Identify and describe the facilities where municipal waste is currently being disposed or processed, and the remaining available permitted capacity of the facilities. The plan revision shall also consider the capacity which could be made available through the reasonable expansion of the facilities.
- (e) For purposes of this section, substantial plan revisions shall include, but not be limited to:
- (1) The elimination of a recycling program, contained in a county plan and operating in a county resulting in reduced volume of recycling.
 - (2) The addition of municipal waste streams not originally included in the plan.
- (f) A county may choose to use the substantial revision process even if the Department determines that a plan revision is nonsubstantial.

Source

The provisions of this § 272.252 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 521; amended November 28, 1997, effective November 29, 1997, 27 Pa.B. 6190; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (238972) to (238973).

OTHER PLANNING PROVISIONS

§ 272.261. Annual report by county.

- (a) On or before April 1 of each year, a county shall submit a report to the Department.
- (b) The annual report, which shall be submitted on a form supplied by the Department, shall include the following:
 - (1) If the county is developing a plan, a detailed description of its progress in developing the plan, showing which requirements of this subchapter have already been met, and which plan elements have been completed. The county shall also include a schedule for completion of the remaining tasks in accordance with the deadlines and requirements of this subchapter.
 - (2) If the county is implementing an approved plan, a detailed description of its progress in implementing the plan, showing the county's progress in car-

rying out the implementation schedule in the plan. The county shall also describe activities by a person or municipality, including the county, that are contrary to or inconsistent with the approved plan.

(3) The weight or volume of each source-separated material that was recycled by each municipal recycling program operating in the county in the preceding calendar year, and the weight or volume of each source-separated material that was recycled by the county or another recycling program operating in the county in the preceding calendar year.

(4) Documentation that the assumptions the county made in developing capacity assurance in the plan remain valid.

Source

The provisions of this § 272.261 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (238973).

Cross References

This section cited in 25 Pa. Code § 272.314 (relating to limits on Department's authority to award grants).

Subchapter D. GRANTS

SCOPE

Sec.
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SCOPE**§ 272.301. Scope.**

A person or municipality that seeks or receives a grant from the Department under the Municipal Waste Planning, Recycling and Waste Reduction Act or the Small Business and Household Pollution Prevention Program Act shall comply with this subchapter.

Source

The provisions of this § 272.301 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (272978).

GENERAL PROVISIONS FOR AWARDING GRANTS**§ 272.311. Financial management.**

(a) Obligations of the Commonwealth under this subchapter are contingent upon the availability of funds for these grant programs.

(b) For a grant under this subchapter, if the Department receives grant requests for which approved costs exceed available funds for that type of grant, the Department may determine grant awards based on population of the area for which the grant is requested, the extent to which the grant is based on cooperation among several municipalities and the extent to which the grant award will further the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act and section 208 of the Small Business and Household Pollution Prevention Program Act (35 P. S. § 6029.208).

Source

The provisions of this § 272.311 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226125).

§ 272.312. Public notice of grant availability.

The Department will publish a notice in the *Pennsylvania Bulletin* of the following:

- (1) The availability of each grant under this subchapter, except the reimbursement grant for permit applications under §§ 272.371—272.373 (relating to reimbursement grants for certain permit applications).
- (2) The award of each grant requested under §§ 272.321 and 272.331 (relating scope of grant; and scope of grant).

Source

The provisions of this § 272.312 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.313. General requirements for grant applications.

(a) A grant application under this subchapter shall be submitted on a form prepared and furnished by the Department. The application shall contain information the Department deems necessary to carry out the Municipal Waste Planning, Recycling and Waste Reduction Act and the Small Business and Household Pollution Prevention Program Act, as applicable.

(b) A grant application shall be submitted by a municipality or, for a household hazardous waste collection event grant application, a sponsor. For grant applications submitted under the Municipal Waste Planning, Recycling and Waste Reduction Act, a municipal authority may not submit a grant application. A municipality that receives a grant may pass funds from the grant to a municipal authority.

(c) To the greatest extent feasible, grant applications shall be submitted to the Department on paper that is manufactured partly or entirely from postconsumer material.

(d) Prior to development of a grant application under § 272.321 or § 272.331 (relating to scope of grant; and scope of grant), the applicant shall participate in a preapplication conference with the Department.

Source

The provisions of this § 272.313 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (272979).

§ 272.314. Limits on Department's authority to award grants.

(a) The Department may not award more than 10% of the moneys available under any type of grant under this subchapter to a county. This limitation shall be based on funds available for that type of grant in the fiscal year during which the application is filed.

(b) The Department will not award a grant under this subchapter to a person or municipality unless the applicant demonstrates to the Department's satisfaction that:

(1) The applicant has complied with the conditions in previously awarded grants under this subchapter or conditions in previously awarded grants under the act or the Pennsylvania Solid Waste-Resource Recovery Development Act (35 P. S. §§ 755.1—755.14).

(2) The applicant has complied with the Municipal Waste Planning, Recycling and Waste Reduction Act, § 272.261 (relating to annual report by county) and this subchapter.

- (3) If the application is for a household hazardous waste collection event grant, the applicant has complied with the Small Business and Household Pollution Prevention Program Act.
- (4) The applicant has not previously been reimbursed under the Municipal Waste Planning, Recycling and Waste Reduction Act for the expenses requested.
- (c) Activities reimbursed under one grant program under the Municipal Waste Planning, Recycling and Waste Reduction Act will not be eligible as a match under any other grant program under that act.
- (d) The Department may withhold funds for grants under this subchapter if any of the following occurs:
- (1) The application has failed to provide material information concerning the grant, or has provided false information concerning the grant.
 - (2) Equipment purchased with previous grant funds has not been utilized in compliance with program requirements.
 - (3) The grantee has not met the requirements of § 272.421 (relating to program elements).
 - (4) The grantee maintains improper or inadequate documentation to demonstrate proper grant expenditures in administering any grant under the Municipal Waste Planning, Recycling and Waste Reduction Act.
- (e) A grant offering by the Department under this subchapter will lapse if the funds offered are not encumbered within 1 year of the date of offering or if the grantee or the Department determines that the grant funds will not be utilized. The funds lapsed will then be available to applicants in subsequent offerings.
- (f) The Department may not award a grant under § 272.321 or § 272.331 (relating to scope of grant; and scope of grant) unless a preapplication conference is held between the applicant and the Department prior to development of the grant application.

Source

The provisions of this § 272.314 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial pages (272979) to (272980).

§ 272.315. Grant limitations.

- (a) Grant agreements that have been entered into under § 272.321, § 272.331 or § 272.381 (relating to scope of grant) shall terminate within 2 years after the grant funds have been encumbered. Upon written request from the grantee, the Department may extend the agreement termination date by up to 3 months. Lapsed funds will be returned to the Recycling Fund for distribution to applicants in subsequent grant periods.

(b) If grant funds offered for grants under § 272.231, § 272.331 or § 272.381 are not accepted by the applicant within 1 year of offering, the offered funds will be returned to the Recycling Fund for distribution to applicants in subsequent grant periods.

(c) A subcontract for a grant under this subchapter shall be made available to the Department within 10 days of request. A subcontract for 50% or more of the total grant award shall be submitted to the Department. The value of salaries or in-kind services that will be used as a match shall be included in the grant agreement.

(d) A subcontract for a grant under this chapter shall be consistent with Commonwealth procedures and requirements for contracts.

(e) The Department may withhold payments of at least 10% of each grant under this subchapter until the grantee has demonstrated to the Department's satisfaction that the requirements of this subchapter have been met.

(f) The Department will not award a grant for anything that has not been included in a grant application or is not proposed to be used for the same limited purpose as an item included in a grant application.

(g) Nothing in this section prevents the Department from offering returned or lapsed funds to a grantee or under a grant under this subchapter that differs from the original grantee or type of grant.

Source

The provisions of this § 272.315 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 521. Immediately preceding text appears at serial pages (173770) to (173771).

§ 272.316. Performance audit.

A grant application under this subchapter shall include provisions for an independent performance audit, which shall be completed within 6 months after reimbursable work under the grant has been completed. This audit may be performed as part of another independent audit conducted for the municipality.

Source

The provisions of this § 272.316 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226128).

§ 272.317. Grant review.

The Department will deny a grant application, in whole or in part, unless the applicant demonstrates the following to the Department's satisfaction:

- (1) The grant application is complete and accurate, and meets the requirements of this subchapter.

(2) Awarding the grant is likely to accomplish the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act or the Small Business and Household Pollution Prevention Program Act, as applicable.

Source

The provisions of this § 272.317 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (272981).

Cross References

This section cited in 25 Pa. Code § 272.334 (relating to Departmental review); and 25 Pa. Code § 272.354 (relating to Departmental review).

PLANNING GRANTS

§ 272.321. Scope of grant.

The Department will, upon application from a county, award grants for one or more of the following:

- (1) The cost of preparing municipal waste management plans in accordance with Subchapter C (relating to municipal waste planning).
- (2) The cost of carrying out related studies, surveys, investigations, inquiries, research and analyses, including those related to siting.
- (3) Environmental mediation.
- (4) Feasibility studies and project development for municipal waste processing, disposal or composting facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy.
- (5) Educational programs on pollution prevention, other technical assistance to small business for pollution prevention and educational programs on household hazardous waste.

Source

The provisions of this § 272.321 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226128) to (226129).

Cross References

This section cited in 25 Pa. Code § 272.312 (relating to public notice of grant availability); 25 Pa. Code § 272.313 (relating to general requirements for grant applications); 25 Pa. Code § 272.314 (relating to limits on Department's authority to award grants); 25 Pa. Code § 272.315 (relating to grant limitations); 25 Pa. Code § 272.322 (relating to eligible costs); and 25 Pa. Code § 272.384 (relating to education grants).

§ 272.322. Eligible costs.

(a) The grant to a county under § 272.321 (relating to scope of grant) shall be 80% of the approved cost of the plans and studies.

(b) Costs not approved for a grant under § 272.321 include, but are not limited to:

- (1) Capital costs such as equipment and construction.
- (2) Direct salaries.
- (3) Costs incurred in preparing a grant application.
- (4) Indirect costs as defined in Office of Management and Budget Circular A-87, as amended, entitled "Cost Principles for State, Local and Indian Tribal Governments," 60 FR 266.484 (1995). This circular is available from the Department upon request.

Source

The provisions of this § 272.322 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226129).

§ 272.323. Grant application.

The application shall contain a detailed description of the proposed project, the proposed duration of the project, source of the fundings match for the project and an explanation of how the project will further the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act and the Small Business and Household Pollution Prevention Program Act.

Source

The provisions of this § 272.323 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226129).

**GRANTS FOR DEVELOPMENT AND
IMPLEMENTATION OF MUNICIPAL RECYCLING
PROGRAMS****§ 272.331. Scope of grant.**

(a) The Department will award grants for development and implementation of municipal recycling programs, upon application from a municipality. The grant may be used for one or more of the following:

- (1) To identify markets, develop a public education campaign, purchase collection and storage equipment and do other things necessary to establish a municipal recycling program.
- (2) To purchase collection equipment, but only to the extent needed for collection of recyclable materials.
- (3) To purchase mechanical processing equipment, but only to the extent that the equipment is not available to the program in the private sector.

(b) This grant may be awarded to a municipality for eligible costs incurred for a municipal recycling program on or after August 27, 1988.

Source

The provisions of this § 272.331 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.312 (relating to public notice of grant availability); 25 Pa. Code § 272.313 (relating to general requirements for grant applications); 25 Pa. Code § 272.314 (relating to limits on Department's authority to award grants); 25 Pa. Code § 272.315 (relating to grant limitations); and 25 Pa. Code § 272.427 (relating to exemption).

§ 272.332. Eligible costs.

(a) The grant shall be 90% of the approved cost of establishing a municipal recycling program. If the municipality is a financially distressed municipality under section 203(f) of the Financially Distressed Municipalities Act (53 P. S. § 11701.203(f)), that is required to establish a municipal recycling program under section 1501 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1501), the grant under this section shall be 100% of the approved cost of establishing a municipal recycling program.

(b) Costs not approved for a grant include, but are not limited to:

- (1) Operating and maintenance costs for a municipal recycling program.
- (2) Costs incurred in preparing a grant application.
- (3) Direct salaries.

(c) The grant may be used to pay for transportation equipment. If the equipment will not be used full time for the program, the application shall prorate the cost of the equipment according to the percentage of time that the equipment will be dedicated to the recycling program. If the application is approved, the equipment shall be used for the purposes outlined in the grant for the life of the equipment.

(d) Equipment purchased with funds from a grant may be owned by a municipal authority or organization of municipal governments, if requested in writing by the grantee. Equipment may be used by, or leased to, another municipality, a not-for-profit agency, an organization of municipal governments or a municipal authority.

(e) Equipment or property purchased with funds from a grant shall be used exclusively for its intended purpose for its useful life. Useful life shall be considered the period of time a particular item is able to function as intended, with the aid of proper maintenance and repairs.

(f) Equipment and property purchased with funds from a grant and with a purchase price of \$1,000 or greater shall be clearly identified by the grantee, through a sign or lettering permanently affixed to the equipment or property, as being funded by a Department of Environmental Protection Act 101 section 902 recycling grant.

(g) If equipment or property purchased with funds from a grant is no longer used for the intended purposes under the grant, the grantee shall notify the

Department in writing. The Department shall be reimbursed for the value of the equipment or property in the same proportion that funding for the equipment or property was originally granted, unless the equipment or property is sold to another municipality for waste reduction or recycling purposes. The reimbursement shall be based either on the sale price of the equipment or property if applicable or its depreciated market value. Upon approval of the Department, equipment may be traded in for or toward the cost of recycling equipment. The sale price of equipment or property sold to another municipality cannot exceed the dollar amount the municipality paid as match for the original grant.

Source

The provisions of this § 272.332 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226130) to (226131).

§ 272.333. Grant application.

(a) The application shall contain a detailed explanation of the structure and operation of the program, the proposed duration of the program, the source of the funding match for the program and an explanation of how the program will further the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act.

(b) The application shall describe the collection system for the program, including:

- (1) Material collected and persons affected.
- (2) Contracts for the operation of the program.
- (3) Markets or uses for collected materials, giving consideration to the results of the market development study required by section 508 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.508).
- (4) Ordinances or other mechanisms that will be used to ensure that materials are collected.
- (5) Public information and education.
- (6) Program economics, including processing or disposal cost which were avoided.
- (7) Other information deemed necessary by the Department.

(c) If the municipality proposes to use some or all of the grant funds to purchase mechanical processing equipment, the application shall also contain the following:

(1) A dated copy of a public notice that was published once a week for 2 consecutive weeks in a newspaper of general circulation in the municipality. The notice shall:

- (i) State that funding is being sought from the Commonwealth's recycling fund, under the Municipal Waste Planning, Recycling and Waste Reduction Act, to assist with the purchase of the mechanical processing equipment.
- (ii) Describe in reasonable detail the equipment the municipality proposes to purchase or cause to be purchased.

- (iii) Describe the intended uses of the equipment.
 - (iv) State that interested persons may submit comments to the municipality within 30 days of publication of the notice.
 - (v) Be in the form of a display advertisement, legal notice or public notice.
- (2) A description of responses to the notice.
 - (3) An explanation of why the municipality has concluded the equipment is not available from the private sector.

Source

The provisions of this § 272.333 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226131) to (226132).

§ 272.334. Departmental review.

In addition to the limitations in § 272.317 (relating to grant review), the Department will not award a grant, in whole or in part, unless the applicant demonstrates the following to the Department's satisfaction:

- (1) The recycling program for which the grant is sought does not duplicate another recycling program operating within the municipality.
- (2) The recycling program for which the grant is sought did not receive a grant from the Department under the Pennsylvania Solid Waste-Resource Recovery Act (35 P. S. §§ 755.1—755.14), unless the application is for costs not paid by the grant.

Source

The provisions of this § 272.334 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

GRANTS FOR COUNTY RECYCLING COORDINATORS

§ 272.341. Scope of grant.

The Department will award grants for authorized salary and expenses for county recycling coordinators, upon application from a county. The activities for which a grant may be used include:

- (1) Assisting the county in developing and implementing the waste reduction, recycling, leaf and yard waste, and household hazardous waste components of its solid waste management plan.
- (2) Identifying and encouraging opportunities for intermunicipal cooperation and cooperative efforts with other organizations to further waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.
- (3) Providing technical assistance to municipalities on developing and implementing waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.

(4) Developing educational programs and materials on waste reduction, recycling, leaf and yard waste composting, household hazardous waste programs and litter control.

(5) Serving as a contact for waste reduction, recycling, leaf and yard waste composting, and household hazardous waste program questions from within the county.

(6) Participating in, and coordinating when appropriate, waste reduction, recycling, leaf and yard waste composting, and household hazardous waste meetings, training programs, workshops and conferences.

(7) Speaking to schools and community, business and government organizations about waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.

(8) Assisting municipalities in identifying recyclable materials capable of being marketed and locating markets.

(9) Assisting municipalities with developing and coordinating leaf and yard waste collection and composting programs and identifying markets for compost.

(10) Assisting municipalities in preparing recycling and household hazardous waste program grant applications.

(11) Collecting data on municipal recycling programs within the county and on commercial, institutional and municipal establishment recycling, and recycling at community activities and reporting the data annually to the Department on or before April 1.

(12) Identifying sources of recyclable products and products made of recycled materials and encouraging the use of those items to support county and municipal recycling programs.

(13) Developing recycling programs for special materials such as automotive waste oil, tires, household hazardous waste, white goods, batteries, electronic equipment, computers and devices that contain cathode ray tubes such as televisions and computer monitors.

(14) Administration and management of county recycling programs.

(15) Assessing the implementation of recycling programs within the county.

Source

The provisions of this § 272.341 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226132).

§ 272.342. Eligible costs.

(a) The grant shall be 50% of the approved cost of the recycling coordinator's salary and expenses.

(b) Costs not approved for a grant include, but are not limited to:

(1) Activities and expenses incurred by the recycling coordinator that are not related to recycling.

(2) Office equipment and office maintenance.

(3) Office supplies, duplicating and postage.

- (4) Permit application processing activities, including consulting fees for technical consultation on specific permits.
- (5) Clothing allowances.

Source

The provisions of this § 272.342 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226133).

§ 272.343. Grant application.

The application shall contain a detailed explanation of the duties and activities of the county recycling coordinator. If the recycling coordinator has been active prior to the year for which the grant is sought, the application shall also explain the coordinator's activities and achievements in the previous year.

Source

The provisions of this § 272.343 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

PERFORMANCE GRANTS FOR RECYCLING PROGRAMS

§ 272.351. Scope of grant.

The Department will award annual performance grants for municipal recycling programs, upon application from a municipality. The grant shall be available to municipalities which had a recycling program on or after October 26, 1988, or initiated a program after that date. The municipality may use this grant in any lawful manner it believes appropriate.

Source

The provisions of this § 272.351 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.352. Eligible materials.

The Department will award a grant to a municipality based on the type and weight of source-separated recyclable materials that were actually marketed in the previous calendar year, and the population of the municipality. Materials not approved for a grant include, but are not limited to, leaves and yard waste. Documentation that the materials were actually marketed is required to establish eligibility of the materials.

Source

The provisions of this § 272.352 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.353. Grant application.

(a) The application shall contain a description of the weight of each material recycled and marketed. The weight shall be reduced for any residue materials.

(b) The application shall be supported by documentation which includes weigh slips or receipts verifying the materials claimed as recycled and marketed and:

(1) The supporting documentation shall be retained by the applicant for 4 years from the end date of the year the materials were recycled and marketed.

(2) The supporting documentation shall be made available to the Department, the Office of Attorney General, the Office of the Treasurer or the agents of those offices.

(c) If the application involves a recycling operation that serves more than one municipality, the application shall describe the total weight and type of materials collected by the operation, and the applicant's contribution.

Source

The provisions of this § 272.353 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 521; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226134).

§ 272.354. Departmental review.

In addition to the requirements of § 272.317 (relating to grant review), the Department will not approve a grant application for materials unless the materials were actually marketed.

Source

The provisions of this § 272.354 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

GRANTS FOR HOST MUNICIPALITY INSPECTORS**§ 272.361. Scope of grant.**

The Department will award grants for certified host municipality inspectors, in accordance with §§ 272.362 and 272.363 (relating to eligible costs; and grant application).

Source

The provisions of this § 272.361 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.362. Eligible costs.

(a) The grant shall be 50% of the approved cost of the salaries and expenses of up to two certified host municipality inspectors.

(b) Costs not approved for a grant include, but are not limited to:

(1) Activities and expenses incurred by the inspectors that are not related to inspection of resource recovery facilities or municipal waste landfills located in the municipality.

(2) Administrative, management or clerical activities.

(3) Office equipment and office maintenance.

(4) Office supplies, duplicating and postage.

(5) Clothing allowances.

(6) Costs covered under the grant provided by § 272.371 (relating to scope of grant).

(7) Costs incurred by the municipality or the inspector prior to certification or after decertification of the inspector by the Department or while the inspector is on inactive status.

Source

The provisions of this § 272.362 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial page (226135).

Cross References

This section cited in 25 Pa. Code § 272.361 (relating to scope of grant).

§ 272.363. Grant application.

The application shall contain a detailed explanation of the duties and activities of the certified host municipality inspectors. If the inspector has been active prior to the year for which the grant is sought, the application shall also explain the inspector's activities in the previous year.

Source

The provisions of this § 272.363 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.361 (relating to scope of grant).

§ 272.364. Maintaining certification; inactive status; decertification; recertification.

(a) *Maintaining certification.*

(1) To maintain certification, a host municipality inspector shall:

(i) Complete a Department-sponsored advanced training course once every 3 years and perform satisfactorily on the written examination.

(ii) Conduct at least one inspection per calendar year. The Department will rely on written confirmation of the inspection, by the host municipality, as evidence that the inspection occurred timely.

(2) Failure to satisfy paragraph (1)(i) or (ii) will automatically result in inactive status for the host municipality inspector, beginning July 1 of the year following the failure, unless the inspector takes the Department sponsored advance training course and performs satisfactorily on the written examination by July 1 of the year following the failure.

(3) A host municipality inspector whose status is “inactive” will be subject to the prohibitions of subsection (b).

(b) *Inactive status.*

(1) A host municipality inspector whose status is “inactive” under subsection (a) may not conduct activities of a certified host municipality inspector during the term of the inactive status. The prohibited activities include:

- (i) Entering the waste facility property as a host municipality inspector.
- (ii) Inspecting the waste facility records.
- (iii) Taking samples at the waste facility.
- (iv) Conducting inspections at the waste facility.

(v) Issuing an order at or to the waste facility under section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1102).

(2) The Department will not pay the host municipality’s cost of employing a certified host municipality inspector incurred during any period of time during which the inspector’s status is “inactive,” except as provided in paragraph (3).

(3) A host municipality inspector whose status is “inactive” may revert to “active” status by completing the Department sponsored advanced training course and performing satisfactorily on the written examination. The Department will reimburse the host municipality for the cost of taking the training and examination in accordance with section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act if the inspector performs satisfactorily on the written examination.

(c) *Decertification.* Acts of a host municipality inspector which may be grounds for decertification include:

(1) Knowingly violating a provision of the Municipal Waste Planning, Recycling and Waste Reduction Act, this title, or an order of the Department or its agent.

(2) Endangering in the course of the inspector’s duties the health or safety of a resident of the host municipality, or of an owner, employe, customer or visitor of a municipal waste landfill or resource recovery facility.

(3) Knowingly distributing, to any person other than an employe of the Department, the Environmental Protection Agency, the office of Pennsylvania’s Attorney General or the United States Department of Justice, business informa-

tion of a municipal waste landfill or resource recovery facility deemed confidential by the Department under section 1713 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1713) without prior written approval of the owner or chief operating manager of the facility.

(4) Knowingly submitting false information to the Department or its agent.

(5) Knowingly exceeding the scope of authority granted to a host municipality inspector under section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act.

(d) *Notification upon decertification.* Upon decertification, the Department will notify in writing the host municipality inspector, the host municipality and the affected municipal waste landfill or resource recovery facility of the following:

(1) The name of the decertified inspector and the related host municipality.

(2) The effective date of the decertification.

(3) Whether the inspector will be eligible for recertification. In deciding whether a decertified inspector will be eligible for recertification, the Department will consider the nature and gravity of the misconduct which resulted in the decertification.

(4) The reason for the decertification.

(e) *Recertification.* A decertified host municipality inspector is not eligible to serve as a host municipality inspector for any municipality for 2 years from the date of the Department's notification of decertification. To become recertified, an eligible decertified host municipality inspector shall comply with section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act.

Source

The provisions of this § 272.364 adopted December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685.

REIMBURSEMENT GRANTS FOR CERTAIN PERMIT APPLICATIONS

§ 272.371. Scope of grant.

The Department may award reimbursement grants to host municipalities for costs incurred for independent review of a permit application under the act for the following facilities:

(1) A new resource recovery facility or a proposal to expand the capacity of an existing resource recovery facility.

(2) A new municipal waste landfill or a proposal to expand the capacity of an existing municipal waste landfill.

Source

The provisions of this § 272.371 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.312 (relating to public notice of grant availability); and 25 Pa. Code § 272.362 (relating to eligible costs).

§ 272.372. Eligible costs.

- (a) The grant may not exceed \$10,000 per application.
- (b) Costs not approved for a grant include, but are not limited to:
 - (1) Costs incurred by a person who does not meet the following:
 - (i) The person shall be a professional engineer licensed in this Commonwealth.
 - (ii) The person shall have previous experience preparing permit applications under the act for resource recovery facilities or municipal waste landfills.
 - (2) Costs incurred prior to the date the Department has determined the application to be complete under § 271.202 (relating to completeness review).
 - (3) Costs incurred prior to September 26, 1988.

Source

The provisions of this § 272.372 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.312 (relating to public notice of grant availability).

§ 272.373. Grant application.

- (a) The application shall contain the following:
 - (1) A detailed explanation of the tasks performed in the review of the application.
 - (2) A description of the findings and recommendations of the review.
 - (3) A description of the qualifications of the person performing the review, including the person's previous experience in preparing permit applications for resource recovery facilities or municipal waste landfills under the act, and also including a demonstration that the person performing the review is a licensed professional engineer in this Commonwealth.
- (b) Where the facility is located within more than one host municipality, the municipalities involved shall designate a lead municipality to apply for the grant.

Source

The provisions of this § 272.373 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.312 (relating to public notice of grant availability).

**GRANTS FOR HOUSEHOLD HAZARDOUS WASTE
COLLECTION EVENTS****§ 272.381. Scope of grant.**

The Department will award grants for the establishment and operation of household hazardous waste collection events upon application of an eligible collection event sponsor. The grants may be awarded only to programs that have been registered with and approved by the Department under Subchapter F (relating to household hazardous waste collection, transportation and management).

Source

The provisions of this § 272.381 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (272994).

Cross References

This section cited in 25 Pa. Code § 272.315 (relating to grant limitations).

§ 272.382. Eligible costs.

(a) Eligible costs incurred by the sponsor for a household hazardous waste collection event include the following:

- (1) Labor costs, including wages, salaries, costs for Social Security, Workers' Compensation and Unemployment Compensation.
- (2) Travel and related costs associated with attending training courses and related meetings, if reimbursement is approved in advance of the training course or meeting by the Department.
- (3) Legal fees for preparing and reviewing collection contractor proposals and contracts in the development stage.
- (4) Facility siting studies.
- (5) Printing and distribution of public education material.
- (6) Collection contractor mobilization fees and waste management fees for collected materials.
- (7) Onsite sanitary facilities.

(b) A household hazardous waste collection event grant shall be limited to the lowest of the following:

- (1) Fifty percent of the eligible costs incurred by the sponsor in establishing and operating a collection event.
- (2) Eligible costs incurred in establishing and operating a collection event, less fees collected by the sponsor under § 272.533 (relating to fees).
- (3) One hundred thousand dollars.

Source

The provisions of this § 272.382 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (272994).

§ 272.383. Grant application.

(a) A grant applicant shall submit its application on a form provided by the Department. An application shall be accompanied by appropriate supporting documentation.

(b) A grant applicant shall ascertain that a record of operations has been sent to the Department prior to or with the grant application.

Source

The provisions of this § 272.383 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial pages (272994) to (272995).

§ 272.384. Education grants.

A county may apply for a household hazardous waste education program grant under § 272.321 (relating to scope of grant).

Source

The provisions of this § 272.384 adopted October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547.

Subchapter E. MUNICIPAL RECYCLING PROGRAMS

SCOPE

Sec.
272.401. Scope.

REQUIRED RECYCLING PROGRAMS

272.411. Affected municipalities.

PROGRAM ELEMENTS

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272.427. Exemption.

Cross References

This subchapter cited in 25 Pa. Code § 272.226 (relating to description of recyclable materials).

SCOPE

§ 272.401. Scope.

This subchapter sets forth the Department's requirements for the establishment and operation of municipal recycling programs.

Source

The provisions of this § 272.401 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

272-47

(284475) No. 325 Dec. 01

REQUIRED RECYCLING PROGRAMS**§ 272.411. Affected municipalities.**

(a) By September 26, 1990, a municipality other than a county that has a population of 10,000 or more shall establish and implement a source separation and collection program for recyclable materials in accordance with this subchapter.

(b) By September 26, 1991, a municipality other than a county that has a population of more than 5,000 but less than 10,000 and which has a population density of more than 300 per square mile, shall establish and implement a source separation and collection program for recyclable materials in accordance with this subchapter.

(c) For purposes of this section, population shall be determined by the most recent decennial census by the Bureau of the Census of the United States Department of Commerce.

(d) The results of the 2000 census, or a subsequent decennial census, shall affect a municipality's obligation to establish and implement a recycling program under this subchapter only as follows:

(1) A municipality that meets requirements of subsection (a) or (b) but which was not required by the previous decennial census to conduct a recycling program, shall establish and implement a source separation and collection program in accordance with this subchapter within 2 years after the census data becomes official.

(2) A municipality that no longer meets the requirements of subsection (a) or (b) based on the most recent decennial census, but which was required by the previous decennial census to conduct a recycling program, may discontinue the program.

Source

The provisions of this § 272.411 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226139) to (226140).

PROGRAM ELEMENTS**§ 272.421. Program elements.**

The source separation program shall include, at a minimum, the following elements:

(1) An ordinance or regulation adopted by the governing body of the municipality, in accordance with § 272.422 (relating to municipal ordinance).

(2) A scheduled day during which separated materials are to be placed for collection at the curbside. Collection shall be at least once per month for materials other than leaf waste. Collection for leaf waste shall be scheduled as

appropriate. If no curb exists, separated materials shall be placed at a location similar to the curb where they may be collected easily.

(3) A system, including trucks and related equipment, that collects recyclable materials from the curbside or similar location at least once per month from each residence or other person generating municipal waste in the municipality.

(4) A public information and education program, in accordance with § 272.423 (relating to public information and education).

(5) Provisions for the recycling of collected materials.

Source

The provisions of this § 272.421 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.422. Municipal ordinance.

(a) The ordinance or regulation adopted by the governing body of the municipality shall contain the following requirements:

(1) Persons shall separate at least three materials from municipal waste generated at their homes, apartments and other residential establishments, and shall store the materials until collection. The three materials shall be designated in the ordinance, and shall be chosen from the following: clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

(2) Persons shall separate leaf waste from municipal waste generated at their homes, apartments and other residential establishments until collection, unless those persons have otherwise provided for the composting of leaf waste.

(3) Persons shall separate high grade office paper, aluminum, corrugated paper and leaf waste generated at commercial, municipal or institutional establishments and from community activities, and store the materials until collection. The ordinance may designate additional materials for recycling.

(b) The ordinance shall allow an owner, landlord or agent of an owner or landlord of multifamily rental housing properties with four or more units to comply with its responsibilities under this subchapter by establishing a collection system for recyclable materials at each property. The collection system shall include suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords and agents of owners or landlords who comply with the ordinance under this subsection are not liable for the noncompliance of occupants of their buildings.

(c) The ordinance shall exempt persons occupying commercial, institutional and municipal establishments within its municipal boundaries from the ordinance if the following requirements are met:

- (1) The persons have otherwise provided for the recycling of materials that they are required by this subchapter and the ordinance to recycle.
- (2) The persons annually provide written documentation to the municipality of the amount of municipal waste generated as well as the type and weight of materials that were recycled in the previous calendar year.
- (d) Nothing in the ordinance or regulation may impair the ownership of separated materials by the persons who generated them until separated materials are placed at curbside or similar location for collection by the municipality or its agents.

Source

The provisions of this § 272.422 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.421 (relating to program elements).

§ 272.423. Public information and education.

(a) A municipality subject to this subchapter shall establish a comprehensive and sustained public information and education program concerning recycling program features and requirements. As part of this program, a municipality shall, at least 30 days prior to the initiation of the recycling program and at least once every 6 months thereafter, notify persons occupying residential, commercial, institutional and municipal premises within its boundaries of the requirements of the ordinance. This notice shall include an explanation of how the system will operate, the dates of collection, and responsibilities of persons within the municipality and incentives and penalties.

(b) The governing body of a municipality may place an advertisement in a newspaper circulating in the municipality, post a notice in a public place where public notices are customarily posted, including a notice with other official notifications periodically mailed to residential taxpayers, or utilize a combination of the foregoing.

Source

The provisions of this § 272.423 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

Cross References

This section cited in 25 Pa. Code § 272.421 (relating to program elements).

§ 272.424. Implementation.

(a) Except as provided in subsection (b), a municipality shall implement its responsibilities for collection, transportation, processing and marketing materials under this subchapter in one or more of the following ways:

(1) Collect, transport, process or market materials as required by this subchapter.

(2) Enter into contracts with other persons or license other persons for the collection, transporting, processing or marketing of materials as required by this subchapter. A person who enters into a contract or is licensed under this subsection shall be responsible with the municipality for the implementation of this section.

(b) Nothing in this subchapter requires a municipality to collect, transport, process and market materials or to contract for the collection, transportation, processing and marketing of materials from an establishment or activity if the following are met:

(1) The municipality is not collecting and transporting municipal waste from the establishment or activity.

(2) The municipality has not contracted for the collection and transportation of municipal waste from the establishment or activity.

(3) The municipality has adopted an ordinance as required by this subchapter, and the establishment or activity is in compliance with this subchapter.

Source

The provisions of this § 272.424 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.425. Preference.

In implementing its recycling program, a municipality shall accord consideration for the collection, marketing and disposition of recyclable material to persons engaged in the business of recycling on September 26, 1988, whether or not the persons were operating for profit.

Source

The provisions of this § 272.425 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.426. Alternative to curbside program.

(a) The governing body of a municipality that is required by this subchapter to develop and implement a curbside recycling program may request the Department to approve an alternative recycling program. This alternative may include recycling services by a municipal waste landfill or resource recovery facility, or recycling facility.

(b) The Department will not approve an alternative recycling program unless the municipality demonstrates the following to the Department's satisfaction:

(1) The facility in which recycling would be performed has a municipal waste management permit from the Department under this article.

(2) The facility, or a substantially similar model of the facility, has effectively processed municipal waste in the United States for at least 2 years. To meet this requirement, a facility shall have:

(i) Operated at no less than 90% of its capacity for the 2-year period, and processed municipal waste during this period that is substantially similar to waste generated by the requesting municipality that would be processed in the future.

(ii) Recycled and marketed 25% of waste that is received and be capable of recycling 25% of waste in the future, based on contractual arrangements and other factors. Products derived from municipal waste which will be incinerated, whether for energy production or not, or products derived and then disposed, do not qualify as a contribution to the 25% recycling requirement. Materials extracted from municipal waste for recycling purposes, including compost, and marketed qualify.

(3) The materials recovered or created by the facility can be marketed as readily as materials collected through a curbside program. The operator shall show where materials are sent for recycling during the life of the demonstration period, even if it is not the same facility.

(4) The alternative program is preferable to a curbside recycling program, based on a detailed analysis of the comparative economic costs, including avoided costs, and environmental benefits of each program.

(c) Immediately upon filing the request, the municipality shall publish a written notice of its request for at least 1 week in a newspaper of general circulation in the area where the municipality is located. The notice shall include a brief description of the nature of the alternative program and the municipality's economic and environmental justification for the alternative program.

(d) A request for approval of an alternative recycling program may not be construed to allow the delay or suspension of development or implementation of a curbside recycling program pending the Department's decision on the request. An approval of an alternative recycling program may not be construed to allow the delay or suspension of development or implementation of a curbside recycling program pending the availability for use of the alternative program.

(e) The Department may revoke approval granted under this section if the alternative recycling program is not meeting the requirements of this section or is not operating in accordance with the terms of the municipality's request to the Department under this section.

Source

The provisions of this § 272.426 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685. Immediately preceding text appears at serial pages (226143) to (226144).

§ 272.427. Exemption.

(a) A municipality may apply to the Department for an exemption for the requirements of this subchapter.

(b) The Department will not grant an exemption unless the municipality demonstrates the following to the Department's satisfaction:

(1) The municipality has exercised its best efforts to implement a curbside recycling program required by this subchapter for at least 2 years after it was required to establish and implement the program.

(2) The municipality has made timely grant applications to the Department under § 272.331 (relating to scope of grant).

(3) Reasonable and necessary costs of operating the required recycling program exceed the sum of the following:

(i) Income from the sale or use of collected material.

(ii) Grant money received from the Department under § 272.331.

(iii) Avoided costs of municipal waste processing or disposal.

(c) If the Department approves a request, the municipality is exempt from the requirements of this subchapter on or after the date of the Department's approval. The municipality shall immediately pay to the Department an amount equal to the depreciated value of capital equipment, buildings or other structures or facilities that were constructed or obtained through Departmental grants under § 272.331. The municipality shall pay to the Department within 5 years an amount equal to the depreciated value of capital equipment purchased with funds provided by the Department under § 272.331, less percentage contributions by the municipality for the purchase of the capital equipment, or the municipality shall convey within 90 days the capital equipment to the Department.

(d) A municipality to which the Department has granted an exemption under this section shall be entitled to raise an affirmative defense to certain Department enforcement actions as provided in section 1712 of the Municipal Waste Planning, Recycling and Waste Reduction Act (35 P. S. § 4000.1712).

Source

The provisions of this § 272.427 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

**Subchapter F. HOUSEHOLD HAZARDOUS WASTE
COLLECTION, TRANSPORTATION AND MANAGEMENT****SCOPE**

Sec.
272.501. Scope.

272-53

(284477) No. 325 Dec. 01

REGISTRATION AND APPROVAL OF PROGRAMS

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REGISTRATION REVIEW

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- 272.535. Cleanup of site.
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- 272.537. Sponsor recordkeeping.

COLLECTION CONTRACTORS

- 272.541. Collection contractor.
- 272.542. Reporting.
- 272.543. [Reserved].

TRANSPORTERS OF HOUSEHOLD HAZARDOUS WASTE

- 272.551. Household hazardous waste transportation.

Cross References

This subchapter cited in 25 Pa. Code § 272.381 (relating to scope of grant); and 25 Pa. Code § 283.123 (relating to plan for removal of hazardous materials).

SCOPE

§ 272.501. Scope.

This subchapter sets forth provisions for the registration, approval and operation of household hazardous waste collection programs and for the management

and transportation of household hazardous waste collected as part of an organized collection for the purpose of separating the hazardous waste component from the nonhazardous waste component.

(1) Household hazardous waste that is collected as part of a collection event or that originates at an out-of-State household hazardous waste collection and is brought into this Commonwealth for processing, treatment, storage or disposal is regulated under Article VII (relating to hazardous waste management) and the household hazardous waste provisions of this chapter.

(2) Household hazardous waste that is not collected at a collection event or does not originate at an out-of-State household hazardous waste collection is solid waste which is excluded as hazardous waste under 40 CFR 261.4(b)(1) (relating to exclusions), as incorporated by reference in § 261a.1 (relating to incorporation by reference, purpose and scope).

Source

The provisions of this § 272.501 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273002).

REGISTRATION AND APPROVAL OF PROGRAMS

§ 272.511. Registration requirement.

A person or municipality may not establish a program for the collection, management or disposal of household hazardous waste until the program has been registered with and approved by the Department.

Source

The provisions of this § 272.511 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.512. General application requirements.

(a) Registration applications shall be submitted to the Department on a form provided by the Department, and shall contain information the Department deems necessary to properly develop and implement a household hazardous waste collection program. The application shall be submitted by the potential sponsor. An application shall be submitted to the Department at least 60 days before the collection event.

(b) A registration application shall contain the following information:

(1) The location of the proposed site for the collection event. The site may be on public or private property, including, but not limited to, property owned, leased or controlled by the Commonwealth, its agencies or political subdivisions. If the sponsor of the collection program is not the owner of the site, the sponsor shall include as part of the registration application, written permission from the owner of the site to use the property for the collection event.

(2) The expected sources, types and quantities of household hazardous waste that will be deposited at the collection site during the collection event.

(3) The name, address and license number of the collection contractor who will provide collection and transportation services for the collection program.

(4) The location, permit number and permit expiration date of the facilities to which the household hazardous waste deposited at the collection event will be sent for management. The collection contractor for the program shall provide confirmation, on a form provided by the Department, from those facilities, that wastes deposited at the collection event will be accepted by a permitted facility for management.

Source

The provisions of this § 272.512 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273003).

§ 272.513. Contract.

The application shall include a negotiated contract between the sponsor and the collection contractor. A signed contract shall be submitted to the Department prior to the collection event. The contract shall meet the following requirements:

(1) The contract shall establish the responsibilities of each party for the safe collection, transportation and management of household hazardous waste that is deposited at the collection event in accordance with the statutes and regulations of the Commonwealth and the United States.

(2) The contract shall require that the collection contractor will provide the sponsor with a statement that lists the names and qualifications of personnel accepting waste at the collection event.

(3) The contract shall provide for the cleanup of the collection site and certification of the cleanup of the site by both parties.

Source

The provisions of this § 272.513 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6685; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial pages (273003) to (273004).

§ 272.514. Contingency plan.

The application shall also include a contingency plan that meets the following requirements. The plan shall:

(1) Include provisions to prevent spills, manage and clean up spills that may occur, and prevent explosions, fire or the release of toxic or hazardous substances.

(2) Provide that adequate emergency equipment will be available during the operation of the collection event. The plan shall also include the names and

telephone numbers of local emergency agencies, and Commonwealth and Federal agencies that must be contacted in the event of a fire, spill or other release at the collection site.

(3) Describe the qualifications of the personnel that will be at the collection site operating the collection event.

(4) Describe the security arrangements that will be provided at the collection site, and shall provide that access to the collection site will be controlled throughout the collection event and the cleanup of the collection site following the event.

(5) Describe provisions for the safe management of waste in the event of inclement weather.

(6) Describe provisions for cancellation or rescheduling of the collection event due to inclement weather.

Source

The provisions of this § 272.514 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273004).

REGISTRATION REVIEW

§ 272.521. Criteria for registration approval or denial.

A registration application will not be approved unless the applicant affirmatively demonstrates to the Department's satisfaction that the following conditions are met:

(1) The registration application is complete and accurate.

(2) The requirements of the act, the environmental protection acts and this subchapter have been complied with.

(3) The compliance status of the applicant or a related party under section 503(c) and (d) of the act (35 P. S. § 6018.503(c) and (d)) does not require or allow registration denial.

Source

The provisions of this § 272.521 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.522. Conditions on registration approval.

(a) The Department may place terms and conditions upon registration approval it deems necessary to protect public health, public safety and the environment, and to ensure compliance with the act, the environmental protection acts and this title.

(b) Except to the extent that the registration approval states otherwise, the collection contractor shall conduct household hazardous waste collection activities as described in the approved registration.

(c) A registration approval under this subchapter is nontransferable and non-assignable. A registration approval applies to the collection contractor and its employees. Leased or subcontracted drivers, and drivers who provide equipment, have no authority to operate under the registration approval without prior written authorization from the Department.

Source

The provisions of this § 272.522 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.523. [Reserved].

Source

The provisions of this § 272.523 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; reserved October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273005).

OPERATION OF PROGRAMS

§ 272.531. Basic operational requirements.

(a) A program for the collection and management of household hazardous waste shall be operated in accordance with the following:

- (1) The approved registration, including any conditions the Department attaches to approval.
- (2) The Small Business and Household Pollution Prevention Program Act.
- (3) The requirements of Article VII (relating to hazardous waste management) as made applicable by this subchapter.

(b) Only eligible entities may deposit waste at a household hazardous waste collection event.

(c) Waste exchanges may be conducted as part of the collection event in a manner approved by the Department.

Source

The provisions of this § 272.531 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273006).

§ 272.532. Limitations on acceptable waste.

(a) The following wastes may not be accepted at a collection event:

- (1) Radioactive material.
- (2) Infectious waste, except sharps.
- (3) Explosives.

(b) An eligible entity may not deposit more than 1,000 kilograms (2,200 lbs.) of waste at an individual collection event. The collection contractor shall weigh waste received at a collection event to ensure that no entity deposits more than

1,000 kilograms of waste at an individual collection event. A sponsor may lower the maximum amount of waste that may be deposited by an eligible entity.

Source

The provisions of this § 272.532 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273006).

§ 272.533. Fees.

To help defray the costs of operating a collection event, a sponsor may require eligible entities to pay a reasonable fee to deposit waste with the collection event.

Source

The provisions of this § 272.533 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial pages (272306) to (272307).

Cross References

This section cited in 25 Pa. Code § 272.382 (relating to eligible costs).

§ 272.534. Liability insurance.

The collection contractor shall maintain in continued force and effect a policy providing general comprehensive liability insurance coverage for third-party claims of bodily injury, wrongful death and property damage arising from activities associated with the collection, storage and transportation of household hazardous waste. The insurance coverage shall be in an amount of \$2 million annual aggregate.

Source

The provisions of this § 272.534 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.535. Cleanup of site.

At the end of the collection event, the sponsor and the collection contractor shall return the collection site to its original condition. Collected waste shall be removed from the site within 48 hours after completion of the collection event, unless a longer time has been authorized by the Department. Cleanup of the site shall be certified by the sponsor and the collection contractor in a manner approved by the Department.

Source

The provisions of this § 272.535 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273007).

Cross References

This section cited in 25 Pa. Code § 272.541 (relating to collection contractor).

§ 272.536. Landowner liability.

An owner who, without charge, permits property to be used as a site for a collection event will not be liable for damage, harm or injury to a person or property which results from the use of the property as a site for a collection event. For the purposes of this section, an owner is a person or municipality in possession of a fee interest in property; a tenant, lessee, occupant or person in contract for a possessory interest in property; or the Commonwealth, its agencies or political subdivisions when in possession of property.

Source

The provisions of this § 272.536 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105.

§ 272.537. Sponsor recordkeeping.

A sponsor shall keep a copy of the manifests provided to it by the collection contractor under § 272.541 (relating to collection contractor) for 3 years and shall make them available to the Department upon request.

Source

The provisions of this § 272.537 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial pages (273007) to (273008).

Cross References

This section cited in 25 Pa. Code § 272.541 (relating to collection contractor).

COLLECTION CONTRACTORS**§ 272.541. Collection contractor.**

- (a) A collection contractor shall comply with the following requirements:
- (1) The collection contractor shall have an EPA hazardous waste identification number under 40 CFR 262.12 (relating to EPA identification numbers), incorporated by reference in § 262a.10 (relating to incorporation by reference, purpose, scope and applicability) and modified in § 262.a12 (relating to EPA identification numbers).
 - (2) The collection contractor shall have a hazardous waste transporter's license under § 263a.13 (relating to licensing). In the event that the collection contractor will not transport the household hazardous waste collected at the collection event, the collection contractor shall demonstrate to the Department that the person or municipality that will transport the household hazardous waste has a valid hazardous waste transporter's license under § 263a.13.

(b) The collection contractor shall be deemed to be the generator of hazardous waste for household hazardous wastes accepted during the collection event and shall ensure that transportation and management of the waste, including treatment, storage and disposal, are in accordance with this chapter and the applicable provisions of Article VII (relating to hazardous waste management) except Chapter 262a, Subchapter I (relating to source reduction strategy) and 40 CFR 262.34 (relating to accumulation time), incorporated by reference in § 262a.10. The waste shall be manifested to a permitted or interim status hazardous waste treatment, storage or disposal facility, and shipped to that facility within 48 hours of the end of the collection event, unless a longer time has been authorized by the Department under § 272.535 (relating to cleanup of site).

(c) The collection contractor shall comply with the following requirements:

(1) The collection contractor shall transport and manage the waste in accordance with conditions the Department may attach to the approval of the collection event.

(2) The collection contractor shall deliver a copy of the generator copy of the manifests to the sponsor to maintain in accordance with § 272.537 (relating to sponsor recordkeeping).

(3) The collection contractor shall provide a copy of the record of operations to the sponsor.

(4) The collection contractor shall provide for the recycling, reuse or use of the collected materials to the greatest extent feasible.

Source

The provisions of this § 272.541 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273008).

Cross References

This section cited in 25 Pa. Code § 272.537 (relating to sponsor recordkeeping).

§ 272.542. Reporting.

The collection contractor shall make and maintain a record of operations and submit a copy of the record to the Department and sponsor within 30 days of the end of each collection event. The record shall be on a form provided by the Department, and shall include:

(1) The number of each type of eligible entity submitting waste, including residential, small business, farm or school.

(2) The amount and type of each waste submitted by each type of eligible entity.

(3) The operating name, address and identification number of facilities accepting the collected wastes for final disposition.

Source

The provisions of this § 272.542 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; amended October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273009).

§ 272.543. [Reserved].**Source**

The provisions of this § 272.543 adopted October 9, 1992, effective October 10, 1992, 22 Pa.B. 5105; reserved October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547. Immediately preceding text appears at serial page (273009).

TRANSPORTERS OF HOUSEHOLD HAZARDOUS WASTE**§ 272.551. Household hazardous waste transportation.**

(a) A transporter of household hazardous waste collected as part of a collection event shall meet the requirements of this section.

(b) A transporter of household hazardous waste shall meet the requirements of this section if the waste is collected at an out-of-State household hazardous waste collection and brought into this Commonwealth for processing, treatment, storage or disposal.

(c) A transporter of household hazardous waste described in subsection (a) or (b) is subject to Article VII (relating to hazardous waste management), including the following:

(1) The waste shall be manifested as required under Chapter 262a (relating to standards applicable to generators of hazardous waste) to a facility having a permit or interim status under the Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6901—6992k).

(2) The transporter shall comply with the hazardous waste transportation requirements in Chapter 263a (relating to transporters of hazardous waste).

Source

The provisions of this § 272.551 adopted October 5, 2001, effective October 6, 2001, 31 Pa.B. 5547.

[Next page is 273-1.]