§ 56-0405. Municipal recycling projects.

1. As used in this section the following terms mean:

(a) "Recyclables recovery equipment" means structures, machinery or devices, singly or in combination, designed, constructed and required primarily to separate, process, modify, convert, treat, or prepare collected solid waste, including household hazardous waste, which is included as part of a recyclables recovery program so that component materials or substances or recoverable resources may be used as a raw material for new products or for useful purposes other than for energy recovery.

(b) "Recyclables recovery program" means a program undertaken by a municipality consistent with requirements of section one hundred twenty-aa of the general municipal law to provide for the environmentally sound recovery of recyclables, primarily involving the collection, aggregation and processing of recyclable materials for their use as raw materials for new products or for other useful purposes other than for energy recovery, through facilities planned, designed and constructed to ensure environmental protection and to maximize the potential for recyclables recovery. Such program shall have been approved by the commissioner and undertaken consistent with any local solid waste management plan pursuant to section 27-0107 of this chapter.

(c) "Recycling project" means recyclables recovery equipment, source separation equipment, a recyclables recovery program or any combination thereof required by a recyclables recovery program.

(d) "Source separation equipment" means municipally owned:

(i) add-ons or trailers designed to modify collection vehicles to allow sorting and separation of collected wastes held for the purpose of recycling;

(ii) containers for the source separation and temporary storage of recyclable wastes by commercial, industrial and institutional generators, and for the source separation and temporary storage of recyclable materials by single family and multiple family dwellings prior to collection;

(iii) bins, sheds or other facilities for the temporary storage of materials prior to transport for the purposes of recycling; and

(iv) collection vehicles specifically designed to hold and transport

source-separated recyclables.

2. State assistance payments toward the cost of municipal recycling projects shall be made pursuant to this title with the approval of the commissioner.

3. In reviewing applications for state assistance payments for municipal recycling projects, the commissioner shall give due consideration to:

(a) the adequacy of the municipality's recycling program and its relationship to the needs and plans of other municipalities; provided, however, that such adequacy shall be determined in part by the efforts undertaken to date by the municipality to implement a mandatory source separation law or ordinance required pursuant to section one hundred twenty-aa of the general municipal law;

(b) the suitability and feasibility of the project in relation to the recycling program and the area to be served;

(c) the proportion of solid waste for which recyclables recovery is contemplated and the extent to which the project is consistent with the statewide solid waste recycling goals established under the state solid waste management plan, pursuant to section 27-0103 of this chapter;

(d) the potential for coordination and consolidation of solid waste management practices among municipalities within specified areas, regions or planning units;

(e) the implementation of the system or components thereof and their expected terms of usefulness, singly or in combination;

(f) the present and projected population, land use, and rates and composition of solid waste generation;

(g) the potential or contemplated markets for recovered recyclables and the extent to which the full avoided costs of proper collection, transportation and disposal of source separated recyclables are, or are projected to be, greater than the cost of collection, transportation and sale of said recyclables less the amount received from the sale of said recyclables;

(h) the intergovernmental arrangements integral to the project;

(i) the non-governmental arrangements integral to the project;

(j) the urgency of the project, in relationship to all recyclables

recovery program needs in the state; and

(k) the environmental soundness of the project, including assurance that the project will meet all applicable laws, criteria, and rules and regulations.

4. A municipality, upon the approval of its governing body, may submit an application to the commissioner, in such form and containing such information as the commissioner may require, for state assistance payments toward the cost of municipal recycling projects incurred after April first, nineteen hundred ninety-three which is within the state of New York and which is eligible for state assistance pursuant to this title. The commissioner shall review such project application and may approve, disapprove or recommend modifications thereto consistent with applicable law, criteria, standards or rules and regulations relative to such projects. Upon approval of a project application, a municipality shall enter into a contract, as further provided within this article, with the commissioner for state assistance payments toward the cost of such project to be received pursuant to this article.

5. The commissioner may, in the name of the state, enter into contracts with municipalities to provide state assistance payments toward the cost of municipal recycling projects which shall include the following provisions:

(a) an estimate of the costs of the project as determined by the commissioner;

(b) an agreement by the commissioner to make state assistance payments toward the cost of the project by periodically reimbursing the municipality, during the progress of project development or following completion of the project as may be agreed upon by the parties, in an amount not to exceed the amounts established elsewhere in this title; and

(c) an agreement by the municipality:

(i) to proceed expeditiously with and complete the project as approved by the commissioner;

(ii) to operate and maintain the municipal recycling project in accordance with applicable laws and rules and regulations;

(iii) to provide for the payment of the municipality's share of the

cost of the project;

(iv) to continue, upon evaluation of its effectiveness, operation of the project and not to dispose of the project or any portion thereof or change its use without the approval of the commissioner;

(v) to assume the full cost of any continued operation of the project and to assume the full cost of any continued operation for a period no less than three years;

(vi) to repay within one year of notification by the commissioner, any state assistance payments made toward the cost of the project or an equitable portion of such moneys declared appropriate by the commissioner, if the municipality:

(A) fails to complete the project as approved;

(B) fails to continue operation of the project;

(C) disposes of the project, or any portion thereof, without the prior written approval of the respective commissioner; or

(D) changes the use of the project, or any portion thereof, without the prior written approval of the commissioner. No repayment, however, shall be required where the commissioner determines that such failure, disposition or change of use was immediately necessary to protect public health and safety;

(vii) to apply for and make reasonable efforts to secure federal assistance for the project; and

(viii) to not sell, lease or otherwise dispose of or use lands acquired under this title for any purpose inconsistent with the project under which such land is acquired.

In connection with each contract, the commissioner shall keep adequate records of the amount of the payment by the state and of the amount of federal assistance, if any, received by the municipality. Such records shall be retained by the commissioner and shall establish the basis for recalculation of the state payment as required herein.