

Act 101 Section 902 Recycling Grant Application Guidelines Regarding Proper Management of Recyclables, Including Leaf Waste

Assuring compliance with the terms and conditions of Act 101, the rules and regulations promulgated thereunder, other pertinent statutes and the Department's policies and grant guidance are key components of the Department's grant review process. The Act requires certain municipalities ("mandated municipalities") to recycle certain items and provide for the collection and composting of leaf waste. As such, any mandated municipality that allows the materials that are part of its municipal recycling program, including leaf waste, to be managed in a manner other than recycling or composting is in violation of Act 101. The Act also establishes the grant requirements for those communities not mandated to recycle. However, Act 175 states that the Department "shall not prohibit the award of any grant to a county or municipality that has adopted an ordinance allowing the limited burning of yard waste." Since grant funding is awarded on a competitive basis, the following guidelines have been developed to assure that a common understanding exists between the Department and municipalities regarding section 902 grant program requirements.

Mandated municipality requesting a section 902 grant:

1. DEP Regional Planning and Recycling Coordinators will review recycling ordinances and regulations submitted with the grant application to ensure compliance with Act 101, especially section 1501(c) (1)-(5), including commercial, municipal and institutional facilities and community events.
2. It will be assumed that a municipality that does not have an ordinance or regulation that addresses burning is not authorizing the burning of the materials that are part of its recycling program - unless the Department has evidence to the contrary. This evidence could include complaints or other information gathered by the Department.
3. The grant application should confirm that the municipality does not have an ordinance, regulation or other mechanism authorizing the burning of the materials listed in section 1501(c)(1)(i) and (iii) (except for leaf waste) that are part of its recycling program and that the municipality will enforce its recycling ordinances and regulations. Applications from municipalities that have adopted an ordinance allowing for the limited burning of yard waste will be evaluated on a case-by-case basis to ensure that, to the greatest extent practicable, sufficient effort has been made to comply with sections 1501(c)(1)(ii) and (iii) regarding the separation and composting of leaf waste.
4. The regional office should not recommend a grant until the municipality has adopted any necessary modifications to its ordinances or regulations in relation to these guidelines.

Non-mandated municipality requesting a section 902 grant:

Programs required by the municipality:

1. DEP Regional Planning and Recycling Coordinators will review recycling ordinances and other mechanisms submitted with the grant application to ensure compliance with Act 101, especially section 902(b)(3).
2. The recycling ordinance or other mechanism need only be applicable to that part(s) of the municipality that is being served by the recycling program.
3. It will be assumed that a municipality that does not have an ordinance or other mechanism that addresses burning is not authorizing the burning of the materials that are part of its recycling program - unless the Department has evidence to the contrary. This evidence could include complaints or other information gathered by the Department.
4. The grant application should confirm that the municipality does not have an ordinance, regulation or other mechanism authorizing the burning of the materials listed in section 1501(c)(1)(i) and (iii) (except for leaf waste) that are part of its recycling program and that the municipality will enforce its recycling ordinances and regulations. Applications from municipalities that have adopted an ordinance allowing for the limited burning of

yard waste will be evaluated on a case-by-case basis to ensure that, to the greatest extent practicable, sufficient effort has been made to operate the program according to the intent of sections 1501(c)(1)(ii) and (iii) regarding the separation and composting of leaf waste.

5. The regional office should not recommend a grant until the municipality has adopted any necessary modifications to its ordinances or regulations in relation to these guidelines.

Voluntary Participation Programs:

1. DEP will accept applications from municipalities that have voluntary programs, but funding for a program that allows any material that is part of its recycling program to be burned is unlikely except where the limited burning of yard waste is authorized by an ordinance. Applications from municipalities that have adopted an ordinance allowing for the limited burning of yard waste will be evaluated on a case-by-case basis to ensure that, to the greatest extent practicable, sufficient effort has been made to operate the program according to the intent of sections 1501(c)(1)(ii) and (iii) regarding the separation and composting of leaf waste.

2. It will be assumed that a municipality that does not have an ordinance or other mechanism that addresses burning is not authorizing the burning of the materials that are part of its recycling program - unless the Department has evidence to the contrary. This evidence could include complaints or other information gathered by the Department.

3. The regional office should not recommend a grant until the municipality has adopted any necessary modifications to its ordinances or regulations in relation to these guidelines.

County requesting a section 902 grant:

1. The above guidelines apply if a county requests a section 902 grant on behalf of one or more municipalities within its jurisdiction. The county must include appropriate documentation from each municipality to satisfy the above provisions as they relate to mandated and non-mandated municipalities. It is not necessary that the county adopt its own ordinance to enforce any program for which the municipalities are seeking funding assistance.

2. Counties requesting funds for recycling education only do not need to comply with the requirements of section 1501(c).

3. The Department does not consider counties to be responsible for enforcing municipal recycling ordinances.

4. A county that requests section 902 funding for a material recovery facility (MRF) should ensure that the host municipality does not allow the burning of the materials that are part of the county's recycling program.

5. The regional office should not recommend a grant until the relevant municipalities have adopted any necessary modifications to their ordinances or regulations in relation to these guidelines.

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