

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE C: WATER POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 367

PROCEDURES FOR ISSUING FINANCIAL ASSISTANCE
AWARDS UNDER THE ILLINOIS CLEAN LAKES PROGRAM

SUBPART A: INTRODUCTION

Section

367.110 Purpose
367.120 Definitions
367.130 Incorporations

SUBPART B: FINANCIAL ASSISTANCE PROGRAMS

Section

367.210 Financial Assistance Awards
367.220 Assistance Eligibility Criteria

SUBPART C: FUNDING LEVELS

Section

367.310 Phase I Study Awards
367.320 Phase II and LQMP Awards

SUBPART D: ASSISTANCE APPLICATIONS

Section

367.410 Assistance Award Pre-Application
367.420 Phase I Assistance Application
367.430 Phase II Assistance Application
367.440 LQMP Assistance Application
367.450 Re-application
367.460 Project Selection

SUBPART E: PUBLIC PARTICIPATION

Section

367.510 Public Notification of Assistance Award
367.520 Public Participation in the Selection of a Lake Restoration or
Protection Plan

SUBPART F: MONITORING REQUIREMENTS

Section

367.610 Monthly Reports
367.620 Final Phase I Report
367.630 Final Phase II and LQMP Reports

SUBPART G: ASSISTANCE AWARD CONDITIONS AND LIMITATIONS

Section
367.710 Financial Assistance Agreements
367.720 Phase I Project Implementation Requirement
367.730 Agreement Period
367.740 Appropriation Contingency
367.750 Project Changes
367.760 Financial Assistance Award Termination
367.770 Subcontracts
367.780 Drug Free Workplace
367.790 Final Inspection for Phase II and LQMP Projects

SUBPART H: ACCESS, AUDITING AND RECORDS

Section
367.810 Access
367.820 Audit and Records

SUBPART I: PAYMENTS

Section
367.910 Determination of Allowable Project Costs
367.920 Requests for Payment
367.930 Reimbursement Rate
367.940 Contingency
367.950 Withholding of Payments
367.960 Final Payment

SUBPART J: REQUIREMENTS FOR PHASE I DIAGNOSTIC AND FEASIBILITY STUDIES AND ENVIRONMENTAL EVALUATIONS

Section
367.1010 General
367.1020 Phase I Diagnostic Study
367.1030 Phase I Feasibility Study
367.1040 Environmental Evaluation
367.1050 Approval of Phase I Recommended Alternatives

AUTHORITY: Implementing and authorized by the Illinois Lake Management Program Act [525 ILCS 25] and Section 6-32 of the State Finance Act [30 ILCS 105/6z-32]

SOURCE: Adopted at 22 Ill. Reg. 15269, effective August 7, 1998.

SUBPART A: INTRODUCTION

Section 367.110 Purpose

The Illinois Environmental Protection Agency is authorized by the Illinois Lake Management Program Act [525 ILCS 25] and the Conservation 2000 Projects Fund [30 ILCS 105/6z-32] to establish a program for managing and improving the uses and water quality of Illinois inland lakes and, to that end, to provide financial assistance to lake owners to implement comprehensive use and water quality improvement strategies. This Part 367 establishes the eligibility criteria for financial assistance awards, the procedures for submitting financial assistance applications, and the criteria under which applications will be reviewed by the Illinois Environmental Protection Agency.

Section 367.120 Definitions

- a) Unless otherwise specified, all terms shall have the meanings set out in the Illinois Lake Management Program Act [525 ILCS 25] and the Illinois Environmental Protection Act [415 ILCS 5].
- b) For the purposes of this Part, the following definitions apply:

Agency: the Illinois Environmental Protection Agency.

Comprehensive Lake Management: an action resulting from lake management strategies and plans that address all potential causes of lake degradation, including factors situated both in the lake and within the lake's tributary watershed; and followed by the development and implementation of management strategies that impart long-term improvements and benefits for the lake. [525 ILCS 25/3(c)]

Diagnostic and Feasibility (Phase I) Study: the gathering of data to document the existing and potential sources of pollution and to determine the limnological, morphological, demographic, and other pertinent characteristics of an inland lake and its associated watershed and the analysis of this information to determine the most appropriate method for improving or preserving the quality of the lake for intended uses and to determine the need for a Long-Term Restoration and Preservation (Phase II) Project or a Lake Water Quality Maintenance Program (LQMP). [525 ILCS 25/3(d)]

Financial Assistance Agreement (FAA): an agreement between the Agency and the lake owner that covers the conditions of the financial assistance award.

Financial Assistance Recipient: a lake owner who has entered into a Financial Assistance Agreement with the Illinois Environmental Protection Agency.

Illinois Clean Lakes Program: the inland lake study or implementation financial assistance award program administered by the Agency pursuant to the Illinois Lake Management Act [525 ILCS 25] and the Conservation 2000 Fund program [30 ILCS 105/6z-32].

Lake: any inland lake as defined in Section 3(e) of the Illinois Lake Management Act [525 ILCS 25/3(e)].

Lake Owner: the owner, owners, or designated management authority of any inland lake who possesses the legal authority over a given lake and the ability to generate revenue and in-kind contributions to perform Diagnostic and Feasibility Studies and to enact comprehensive lake management through the implementation of Long-Term Restoration and Preservation Projects (Phase II) and Lake Water Quality Maintenance Programs. [525 ILCS 25/3(f)]

Lake Water Quality Maintenance Program (LQMP): the water quality maintenance program described in Section 3 of the Illinois Lake Management Program Act [525 ILCS 25/3] for implementation of a lake and watershed management plan recommended by the Diagnostic and Feasibility (Phase I) Study which provides short-term relief from nuisance aquatic vegetation and algae growth; projects under

this program must demonstrate that the proposed maintenance program would result in attainment of significant public recreational lake use, and that watershed management plans are being implemented to control and reduce incoming nutrients, sediments, and other pollutants. [525 ILCS 25/3(1)]

*Long-Term Restoration and Preservation (Phase II)
Project: implementation of lake and watershed management plans as developed under the Diagnostic and Feasibility Study which will provide for long-term restoration benefits and long-term preservation of the lake's water quality. [525 ILCS 25/3(g)]*

Monitoring: programs to scientifically document the existing chemical, physical, and biological quality of a lake and the potential sources of pollutants which might lead to the lake's degradation or reduced environmental and cultural values. [525 ILCS 25/3(h)]

Section 367.130 Incorporations

- a) The following materials are incorporated by reference:
 - 1) American Institute of Public Accountants Professional Standards, 666 Fifth Avenue, New York, New York 10019 (1997)
 - 2) Protocol for the Conduct of Phase I Diagnostic-Feasibility Studies and Environmental Evaluations, Appendix E, Clean Lakes Program Guidance Manual, EPA 440/5-81-003, USEPA Office of Water Regulations and Standards (1980)
- b) The incorporations included in this Section contain no additional editions or amendments.

SUBPART B: FINANCIAL ASSISTANCE PROGRAMS

Section 367.210 Financial Assistance Awards

The following financial assistance awards are available under the Illinois Clean Lakes Program for lake protection and restoration at the local level:

- a) Diagnostic and Feasibility Study (Phase I) Awards
These awards are available to lake owners to conduct a Phase I Diagnostic and Feasibility Study to determine, through monitoring, the current limnological, morphological, demographic, and socioeconomic conditions of a specific lake and its watershed and to develop action plans for future lake protection and restoration.
- b) Long-Term Restoration and Preservation Project (Phase II) Awards
These awards are available to lake owners who have completed a Phase I or equivalent study report that meets the requirements of Subpart J of this Part and who agree to implement lake and watershed management plans that provide for the long-term restoration of lake water quality and associated designated lake uses.
- c) Lake Quality Maintenance Program (LQMP) Awards
These awards are available to lake owners who have completed a Phase I or equivalent study report that meets the requirements of Subpart J of this Part, and who agree to implement lake and watershed management plans that will:
 - 1) *provide short-term relief from nuisance aquatic vegetation*

- and algae growth; and*
- 2) *result in the attainment of significant public recreational and other beneficial lake uses such as swimming, fishing, or boating; and*
 - 3) *insure that watershed management plans are being implemented to control incoming pollutants, such as sediment and nutrients.* [525 ILCS 25/3(j)]

Section 367.220 Assistance Eligibility Criteria

- a) Any inland lake owner who meets the following criteria is eligible to apply for a Phase I, Phase II or LQMP assistance award:
 - 1) The lake owner has the legal authority to enter into contracts or agreements with local, State and federal agencies and private organizations for the purpose of performing Phase I, Phase II or LQMP projects;
 - 2) The lake owner has the authority and ability to adopt, implement and enforce official controls; and
 - 3) The lake owner has the authority and ability to generate revenue and in-kind contributions, and agrees to pay the local share of project costs.
- b) Assistance may be requested for any Illinois inland lake as defined in Section 3(e) of the Illinois Lake Management Act that meets the following requirements:
 - 1) Either:
 - A) the lake has an identifiable and quantifiable chemical, physical or biological problem resulting in the impairment of beneficial uses; or
 - B) the lake is in need of protection or is potentially being threatened by any point or nonpoint source of pollution; and
 - 2) the primary uses of the lake include general recreation, public water supply, aquatic life, or primary contact.
- c) The following lakes will generally not be considered eligible for Phase I, Phase II or LQMP assistance:
 - 1) lakes whose primary function is as stormwater detention basins;
 - 2) side-channel impoundments that are mechanically filled with water, and cannot be naturally recharged by surface water runoff or groundwater inflow;
 - 3) lakes that have a surface acreage of less than six acres;
 - 4) ponds owned and managed by private landowners; and
 - 5) river backwater lakes.

Section 367.310 Phase I Study Awards

- a) Through the Clean Lakes Program, the Illinois Environmental Protection Agency will provide up to a maximum of 60% of the total cost of a Phase I Diagnostic and Feasibility Study project (up to a maximum of \$75,000), with the lake owner or other sources providing a minimum 40% match.
- b) However, the maximum Agency contribution per study project shall not exceed \$125,000 in cases where:
 - 1) a single lake owner applies for a study project involving 2 or more distinct, yet hydraulically connected, lakes; or
 - 2) a single lake owner applies for a study project involving 2 or more distinct, non-hydraulically connected, lakes that lie

within the jurisdictional boundary of the applicant lake owner; or

- 3) the Agency determines that it would be technically, economically or administratively more feasible to combine into 1 study project application 2 or more applications submitted by a single lake owner for 2 or more hydraulically connected or non-hydraulically connected lakes.

Section 367.320 Phase II and LQMP Awards

- a) Through the Clean Lakes Program, the Illinois Environmental Protection Agency will provide up to a maximum of 50% of the total project cost for Phase II Long-Term Restoration and Preservation Projects or LQMP projects, with the lake owner or other sources providing a minimum 50% match. No more than a maximum of \$300,000 in State cost-share monies will be allocated to any Phase II project, and no more than a maximum of \$10,000 in State cost-share monies will be allocated to any LQMP project.
- b) Lake owners whose Phase I reports meet the requirements of Subpart J of this Part and who have conducted or are currently conducting Phase I type work under the auspices of Section 314 of the Federal Water Pollution Control Act (33 USC 1324) (Federal Clean Lakes Program) may apply for Phase II or LQMP assistance awards under the Illinois Clean Lakes Program.

SUBPART D: ASSISTANCE APPLICATIONS

Section 367.410 Assistance Award Pre-Application

Lake owners seeking Phase I, Phase II or LQMP funding assistance shall submit the following pre-application information to the Agency by August 31 of each year:

- a) Lake name;
- b) Lake location (city and county);
- c) Name of local project sponsor (grant applicant, source of local match);
- d) Name, address and telephone number of local contact;
- e) Name, address and telephone number of person who prepared application;
- f) Type of award requested (Phase I, Phase II or LQMP);
- g) Estimated project cost;
- h) Estimated local match for project;
- i) Project period;
- j) Lake characteristics:
 - 1) Surface area (acres and hectares);
 - 2) Mean depth (feet and meters);
 - 3) Maximum depth (feet and meters);
 - 4) Volume (acre-feet and cubic meters);
 - 5) Retention time (in years, if available);
 - 6) Type of lake and year constructed (if applicable);
- k) Watershed characteristics (in acres and hectares and percentage of total area):
 - 1) Total watershed area;
 - 2) Cropland;
 - 3) Pasture;
 - 4) Forest;
 - 5) Urban;

- 6) Other;
- l) Lake ownership and access:
 - 1) Specific description of lake bottom ownership;
 - 2) Specific description of the degree of public access to lake shoreline;
- m) Lake use:
 - 1) List of major uses associated with the lake;
 - 2) List of available recreational facilities;
 - 3) Estimated annual recreational use in visitor days (1 user per day = 1 visitor day);
 - 4) Public water supply usage (population served and millions of gallons per day);
- n) A brief description of the lake's history, use, importance and watershed conditions;
- o) A brief description of the lake's impaired uses and water quality problems, including the causes of the problems;
- p) A brief description of the lake restoration plan including, for Phase I projects, the measures anticipated; and, for Phase II or LQMP projects, the measures planned to be implemented and the estimated cost of each measure;
- q) A brief description of the level to which the watershed area has been protected to prevent pollution of the lake;
- r) A brief description of the history of any lake restoration or any previous local efforts to solve the existing problems.

Section 367.420 Phase I Assistance Application

Applications for Phase I financial assistance shall be forwarded to the Agency by the lake owner no later than October 31 of each year. The Phase I application shall include the following information:

- a) Application Proposal
 - 1) A narrative statement describing the specific procedures that will be used to conduct a Phase I Diagnostic and Feasibility Study as required under Subpart J of this Part, including a description of public participation measures.
 - 2) A description of the division of labor and responsibility for the Phase I study.
 - 3) A milestone schedule.
 - 4) An itemized cost estimate, including justification of the costs.
 - 5) Mandatory lake information as follows:
 - A) Lake name;
 - B) Lake location (including latitude and longitude of the lake center);
 - C) Physical characteristics of the lake, including:
 - i) Surface area (acres and hectares);
 - ii) Maximum depth (feet and meters);
 - iii) Mean depth (feet and meters);
 - iv) Volume (acre feet and cubic meters);
 - v) Stratification;
 - vi) Retention time (in years);
 - vii) Major inflows and outflows.
 - 6) A summary of available chemical and biological data indicating the past and present water quality of the lake.
 - 7) A detailed description of the type and amount of public access and a discussion of the public benefits of protecting and restoring the lake.

- 8) A description of the recreational, public water supply, and other uses impaired due to degraded water quality and a discussion of the causes and sources of impairment.
 - 9) A discussion of local interest and resource commitment in lake restoration.
 - 10) A description of a proposed Phase I monitoring program to provide for the collection of the information required in Section 367.1020 of this Part.
 - 11) Lake watershed characteristics as follows:
 - A) Size (acres and hectares);
 - B) Land use (each major use as a percentage of whole);
 - C) General topography and major soil types.
 - 12) A listing of the major point source discharges in the lake watershed (including NPDES permit numbers).
 - 13) An estimate of the percent contribution of total nutrient and sediment loading to the lake by identified point sources.
 - 14) A listing of the major nonpoint sources in the lake watershed and a description of the control measures applied.
 - 15) A discussion of the lake or watershed management practices currently being implemented.
 - 16) A discussion of the anticipated lake protection or restoration methods and the projected net improvements in the chemical, physical or biological quality of the lake.
 - 17) A discussion of any anticipated adverse environmental impacts due to the lake restoration.
- b) Certifications
The Phase I assistance application shall include a completed and signed set of certifications as provided in the Agency's application package.
- c) Project Cost Summary
The Phase I assistance application shall include a completed and signed Project Cost Summary worksheet as provided in the Agency's application package that specifies all expenditures requested for the project.

Section 367.430 Phase II Assistance Application

Applications for Phase II long-term restoration and preservation project assistance shall be forwarded to the Agency no later than October 31 of each year. Phase II assistance applications shall consist of a completed and Agency-approved Phase I Diagnostic and Feasibility Study and a set of completed and signed certification and project cost summary documents.

Section 367.440 LQMP Assistance Application

Applications for LQMP assistance shall be forwarded to the Agency no later than October 31 of each year. An LQMP application shall consist of a completed and Agency-approved Phase I Diagnostic and Feasibility Study, and a set of completed and signed certification and project cost summary documents. The Feasibility portion of the Phase I study (see Section 367.1030 of this Part) shall include a demonstration that the proposed maintenance activities will result in the attainment of significant recreational and other beneficial lake uses such as swimming, fishing and boating, and that watershed management plans are being implemented to control and reduce incoming nutrients, sediments and other pollutants.

Section 367.450 Re-application

A lake owner whose application was not funded may resubmit the application in a subsequent fiscal year by notifying the Agency in writing on or before August 31. The lake owner shall submit to the Agency by October 31 an update of the information previously submitted.

Section 367.460 Project Selection

All applications received by October 31 of each fiscal year will be reviewed for funding by the Agency in accordance with the "Procedures for Determining Priorities for Inland Lake Study and Implementation Project Awards," 35 Ill. Adm. Code 368.

SUBPART E: PUBLIC PARTICIPATION

Section 367.510 Public Notification of Assistance Award

Within two months after receipt of a signed financial assistance award agreement the lake owner shall submit to newspaper, radio and television stations in the immediate project area a news release that includes the following information:

- a) program name;
- b) the program sponsors;
- c) a statement of purpose;
- d) the anticipated timeframe for the study;
- e) the name and address of the local contact person; and
- f) a statement inviting participation from the general public.

Section 367.520 Public Participation in the Selection of a Lake Restoration or Protection Plan

Prior to selecting final restoration alternatives, the lake owner shall hold a public meeting to solicit public comment in developing, evaluating and selecting restoration practices. A public notice shall be published in a newspaper of general circulation in the immediate project area 30 days in advance of the meeting and shall include the following information:

- a) the purpose, date, time and location of the public meeting;
- b) a description of the proposed restoration alternatives in fact sheet or summary form; and
- c) the location, including address and telephone number, where complete information may be obtained.

SUBPART F: REPORTING REQUIREMENTS

Section 367.610 Monthly Reports

All award recipients who are carrying out Phase I, Phase II and LQMP projects shall submit monthly project status reports to the Agency. These reports shall include a discussion of such matters as work progress, project findings, and any difficulties encountered. Monthly reports shall cover the period from the 25th day of one month to the 24th day of the next month, and shall be due to the Agency on the last day of each month.

Section 367.620 Final Phase I Report

Phase I final reports meeting the requirements of Subpart J of this Part

shall be submitted to the Agency on the date specified on the financial assistance agreement.

Section 367.630 Final Phase II and LQMP Reports

Lake owners with Phase II or LQMP projects shall carry out a limited lake monitoring program for at least one year after all protection or restoration practices have been implemented. This program, as specified and agreed upon with the Agency in the final Phase I report, shall be conducted to allow for an evaluation of pre- and post-implementation lake conditions. Upon completion of the post-implementation monitoring program, the lake owner shall prepare a final report that discusses project implementation and results. The final report shall, at a minimum, include the topics and be organized according to the following format, and shall be submitted to the Agency on the date established in the financial assistance agreement:

- a) An Executive Summary section;
- b) An Introduction section;
- c) A Materials and Methods section, including the following:
 - 1) A description of the implementation program, including both watershed and in-lake treatments implemented;
 - 2) A description of pre- and post-implementation water quality sampling and analysis procedures, including:
 - A) physiochemical and limnological data collection;
 - B) chlorophyll and phytoplankton data collection; and
 - C) other applicable data collection;
 - 3) A description of the methods used to calculate a hydrologic budget;
 - 4) A description of the methods used to calculate a nutrient budget;
 - 5) A description of the methods used to calculate a sediment budget;
 - 6) A description of data analysis procedures, including how data were grouped into pre- and post-implementation periods and how data were analyzed;
- d) A Results and Discussion section, including:
 - 1) An analysis of the watershed implementation program;
 - 2) An analysis of the in-lake implementation program pertaining to:
 - A) dissolved oxygen and temperature;
 - B) alkalinity, pH and conductivity;
 - C) Secchi transparency and suspended solids;
 - D) nutrients;
 - E) chlorophyll;
 - F) phytoplankton; and
 - G) other applicable parameters;
 - 3) An analysis of pre- and post-implementation hydrologic budgets;
 - 4) An analysis of pre- and post-implementation nutrient budgets; and
 - 5) An analysis of pre- and post-implementation sediment budgets;
- e) A Conclusions and Recommendations section;
- f) A References section;
- g) An Appendices section.

SUBPART G: ASSISTANCE AWARD CONDITIONS AND LIMITATIONS

Section 367.710 Financial Assistance Agreements

In order to receive an Illinois Clean Lakes Program assistance award, a lake owner must enter into an intergovernmental financial assistance agreement (FAA) with the Agency. The assistance agreement shall include, at a minimum, the following elements:

- a) The agreement period;
- b) A project description and scope of work;
- c) A project schedule;
- d) An identification of allowable project costs and associated cost-share rate;
- e) Conditions for financial assistance; and
- f) Signed certifications of the applicant's authority and involvement in the project. (See Section 367.420(b) of this Part.)

Section 367.720 Phase I Project Implementation Requirement

In order to receive a Phase II or LQMP implementation project assistance award, the lake owner must agree to apply, at a minimum, the restoration practices and methods described and recommended in the approved Phase I Report required under Section 367.1130.

Section 367.730 Agreement Period

- a) Phase I Studies
Financial assistance agreements for Phase I studies shall have a maximum term of 36 months. The lake owner may, however, apply to the Agency in writing for a no-cost time extension of up to six additional months.
- b) Phase II Implementation
Financial assistance agreements for Phase II implementation projects shall have a maximum term of 60 months. The lake owner may, however, apply to the Agency in writing for a no-cost time extension of up to 12 additional months.
- c) LQMP Implementation
Financial assistance agreements for LQMP implementation shall have a maximum term of 18 months. A lake owner may apply to the Agency in writing for a no-cost time extension of up to six additional months in cases where seasonal or other physical lake conditions prevent completion of the project within an 18-month period.

Section 367.740 Appropriation Contingency

All assistance awards are contingent upon the availability of Illinois General Assembly appropriations to conduct the Illinois Clean Lakes Program.

Section 367.750 Project Changes

- a) Prior approval by the Agency is required for project changes that may:
 - 1) increase the amount of assistance award funds needed to complete the project;
 - 2) alter the design or scope of the project; or
 - 3) extend any contractual completion date for the project.
- b) The assistance award recipient shall promptly notify the Agency, in writing, of all proposed project changes. Failure by the award recipient to give notice of proposed project changes or the

Agency's disapproval of a proposed project change may result in:

- 1) disallowance of costs incurred that are attributable to the change; or
- 2) termination of the assistance award.

Section 367.760 Financial Assistance Award Termination

a) Termination by the Agency

The Agency may, by written notice and after consultation with the recipient, terminate the financial assistance award in whole or in part. The following circumstances may be cause for termination of an award:

- 1) failure of the Illinois General Assembly or a funding source to appropriate or otherwise make available sufficient funding for an assistance agreement;
- 2) default by the award recipient;
- 3) failure of the recipient to comply with the terms and conditions of the financial assistance agreement;
- 4) failure of the recipient to comply with the requirements of Subpart I of this Part;
- 5) failure to obtain approval of the Agency prior to making project changes;
- 6) changes in program requirements or priorities.

b) Effects of Termination

Upon termination of the assistance award, the recipient shall refund to the State of Illinois Conservation 2000 Project Fund any unexpended assistance award funds, except for funds required by the recipient to pay for allowable costs for materials and equipment furnished, or for services rendered under an enforceable contract, prior to the effective date of the termination. The provisions of the Illinois Grants Recovery Act [30 ILCS 705] shall be applicable to the recovery of any award funds that the Agency determines have been misspent or are being improperly held by the award recipient.

c) Repayment of Assistance Award

Upon termination by the Agency of an assistance award for any of the reasons set out in subsection (a)(3), (a)(4) or (a)(5) of this Section, the Agency may require that the award recipient repay to the State of Illinois Conservation 2000 Fund any financial assistance funds it has already expended.

Section 367.770 Subcontracts

The lake owner may not use any subcontractors, outside associates or consultants in connection with any services covered by a financial assistance agreement unless specifically authorized by the Agency. When subcontracts are authorized, the lake owner shall submit to the Agency an executed copy of each agreement within seven days after signature.

Section 367.780 Drug Free Workplace

- a) Every award recipient who has 25 or more employees at the time of signing the financial assistance award or who is directly responsible for specific performance under an assistance award of \$5,000 or more shall certify that it will provide a drug free workplace by taking the following steps:

- 1) *Publishing a statement:*

- A) *notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the award recipient's workplace;*
 - B) *specifying the actions that will be taken against employees for violations of such prohibitions;*
 - C) *notifying the employee that, as a condition of employment on such award project, the employee will:*
 - i) *abide by the terms of the statement; and*
 - ii) *notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction.*
- 2) *Establishing a drug free awareness program to inform employees about:*
 - A) *dangers of drug abuse in the workplace;*
 - B) *the award recipient's policy of maintaining a drug free workplace;*
 - C) *any available drug counseling, rehabilitation, and employee assistance programs; and*
 - D) *penalties that may be imposed upon employees for drug violations.*
 - 3) *Providing a copy of the statement required by subsection (a)(1) of this Section to each employee engaged in the performance of the assistance award and posting a copy of the statement in a prominent place in the workplace.*
 - 4) *Notifying the Agency within ten days after receiving a notice of conviction under subsection (a)(1)(C)(ii) of this Section from an employee or otherwise receiving actual notice of a conviction.*
 - 5) *Imposing a sanction on, or requiring satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a violation of a criminal drug statute, as required by Section 5 of the Drug Free Workplace Act.*
 - 6) *Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.*
 - 7) *Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act. [30 ILCS 580/3]*
- b) *In cases where the financial assistance award is more than \$5,000 and the recipient is an individual, the recipient shall certify that he or she will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Clean Lakes project. [30 ILCS 580/4]*

Section 367.790 Final Inspection for Phase II and LQMP Projects

The award recipient shall notify the Agency in writing within 30 days after the completion of Phase II implementation project activities. The Agency will schedule a final inspection of the project within 60 days after the receipt of the notice.

Section 367.810 Access

- a) The Agency and its authorized representatives shall have access, during normal working hours and at all other times when work is being performed, to the area or premises where any portion of the work for which the financial assistance award was provided is being performed.
- b) All contracts entered into by a financial award recipient in connection with a Phase I, Phase II or LQMP project shall provide that the Agency and its authorized representatives shall have access to any work being performed by the subcontractor as well as access to all pertinent books, documents, papers and records of the subcontractor for the purpose of auditing, examination, excerpting or transcribing.
- c) Failure of the assistance award recipient or of a subcontractor to provide the access required by this Section, after 10 days written notice from the Agency, may be cause for termination of the assistance agreement pursuant to Section 367.760 of this Part and refund to the State of Illinois Conservation 2000 Project Fund of any unexpended assistance funds.

Section 367.820 Audit and Records

- a) The assistance award recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices that are consistent with generally accepted government accounting standards in accordance with the American Institute of Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; 1997) to properly account for:
 - 1) the receipt and disposition of all assistance received by the award recipient for the project, including both State assistance and any matching share or cost sharing; and
 - 2) The costs charged to the project, including all direct and indirect costs incurred for the performance of the project.
- b) The items enumerated in subsection (a) shall constitute "records" for the purposes of this Section 367.820.
- c) The award recipient's records shall be subject to inspection and audit by the Agency or its authorized representative at the times specified in Section 367.810 of this Part (Access).
- d) The award recipient shall preserve and make the records available to the Agency or its authorized representative for a period of seven years beyond the termination of the assistance award.
- e) Failure of the assistance award recipient or a subcontractor to make the records available as required by Section 367.810 of this Part (Access) after 10 days written notice from the Agency may be cause for termination of the assistance agreement and refund to the State of Illinois Conservation 2000 Project Fund of any unexpended assistance funds.

SUBPART I: PAYMENTS

Section 367.910 Determination of Allowable Project Costs

- a) The award recipient shall be paid upon request, in accordance with Section 367.930 of this Part, for all costs within the scope of Phase I, Phase II or LQMP project development that the Agency determines to be allowable in accordance with the criteria set out in subsection (b) of this Section.
- b) Allowable Project Costs
Project costs of the award recipient that are reasonable and necessary are allowable costs. Necessary costs may include, but are not limited to:
 - 1) Lake and watershed information and data development and compilation;
 - 2) Monitoring activities (physical, chemical, and biological);
 - 3) Project management and administration;
 - 4) Development of reports and public information materials;
 - 5) Equipment purchases;
 - 6) Implementation of lake restoration alternatives recommended in an approved Phase I report;
 - 7) Implementation of watershed best management practices recommended in an approved Phase I report that are critical to the success of an implementation project.
- c) Ineligible Costs
The following project costs are ineligible for reimbursement:
 - 1) Any costs that are incurred prior to the start of or after the end of the financial assistance agreement period;
 - 2) Operation and maintenance of in-lake or watershed related practices and equipment;
 - 3) Installation of facilities or equipment that are eligible for funding under the Water Pollution Loan Program authorized by 415 ILCS 5/19.1.
 - 4) Activities related to the purchase or long-term leasing of land solely to provide public access;
 - 5) Activities regulated by State solid waste, toxic waste, or hazardous waste related permits or regulations;
 - 6) Activities funded by State or federal grants for wastewater treatment facilities;
 - 7) Activities related to building, utility, highway or road construction;
 - 8) Activities implemented for flood control purposes;
 - 9) Activities that violate State, local, or federal laws, ordinances or regulations.

Section 367.920 Requests for Payment

Requests for payment of expenditures incurred in connection with Phase I, Phase II and LQMP projects shall be submitted to the Agency no more frequently than monthly and shall include the following information:

- a) Project name and location;
- b) Period in which the costs were incurred;
- c) Amount requested;
- d) Itemized accounting reports;
- e) Subcontractor billing statements;
- f) Documentation of payments made by the award recipient to subcontractors; and
- g) Any other information necessary to document costs incurred and paid.

Section 367.930 Reimbursement Rate

- a) Phase I Projects
Eligible costs incurred in connection with Phase I projects shall be paid by the Agency according to the maximum cost-share rate of 60%, as provided in Section 367.310 of this Part, or the cost-share rate established in the financial assistance agreement.
- b) Phase II and LQMP Projects
Eligible costs incurred in connection with Phase II or LQMP projects shall be paid by the Agency according to the maximum cost share rate of 50%, as provided in Section 367.320 of this Part, or the cost-share rate established in the financial assistance agreement.

Section 367.940 Contingency

The Agency may hold up to 10% of the total project costs prior to final payment to ensure that all requirements of the project have been met.

Section 367.950 Withholding of Payments

The Agency may withhold payment to an assistance award recipient who is not meeting the project schedule contained in the financial assistance agreement.

Section 367.960 Final Payment

- a) Phase I Projects
Final payment, including release of any funds held by the Agency pursuant to Section 367.950 of this Part, will be made for Phase I projects upon a determination by the Agency that the project has been implemented according to the scope of work contained in the approved financial assistance agreement.
- b) Phase II and LQMP Projects
Final payment, including release of any funds held by the Agency pursuant to Section 367.950 of this Part, will be made for Phase II and LQMP projects after the Agency has conducted a final inspection pursuant to Section 367.790 of this Part and has determined that the project has been implemented according to the final Phase I Diagnostic and Feasibility Study and the scope of work contained in the approved financial assistance agreement.

SUBPART J: REQUIREMENTS FOR PHASE I DIAGNOSTIC AND FEASIBILITY STUDIES AND ENVIRONMENTAL EVALUATIONS

Section 367.1010 General

Phase I study reports shall include the elements contained in this Subpart J, in the order presented and under appropriate subheadings. The information required by Section 367.1020 of this Part shall be collected in accordance with the requirements of the "Protocol for the Conduct of Phase I Diagnostic-Feasibility Studies and Environmental Evaluations," Appendix E, Clean Lakes Program Guidance Manual, incorporated by reference in Section 367.130 of this Part. So long as the adequacy of the technical information and the integrity of the project are maintained, the information required by Section 367.1120(j) of this Part may be modified to conform to specific project requirements to reduce project costs. All

modifications must be approved by the Agency.

Section 367.1020 Phase I Diagnostic Study

The Phase I diagnostic study shall contain the following elements:

- a) Identification of the lake to be restored or studied, including:
 - 1) the name of the lake;
 - 2) the location of the lake within the State;
 - 3) the general hydrologic relationship of the lake to associated upstream and downstream waters; and
 - 4) the water quality standards applicable to the lake under 35 Ill. Adm. Code 302.
- b) A geological description of the drainage basin including soil types and soil loss to stream courses that are tributary to the lake.
- c) A description of the public access to the lake including the amount and type of public transportation to the access points.
- d) A description of the size and economic structure of the population residing near the lake that would use the improved lake for recreation and other purposes.
- e) A summary of historical uses of the lake, including recreational uses up to the present time, and a discussion of how these uses may have changed because of water quality degradation.
- f) An explanation, if a particular segment of the lake user population is or will be more adversely impacted by lake degradation.
- g) A statement regarding the water use of the lake compared to other lakes within a 50-mile (80-kilometer) radius.
- h) An itemized inventory of all known point source pollution discharges that affect or have affected lake water quality over the past five years, and a description of any abatement actions that have been completed or are in progress for these discharges, including the time frame for any contemplated future corrective action.
- i) A description of the land uses in the lake watershed that lists each land use classification as a percentage of the whole and quantifies the nonpoint pollutant loading produced by each land use category.
- j) A discussion and analysis of historical baseline limnological data and one year of current limnological data, including the following:
 - 1) the present trophic condition of the lake;
 - 2) the surface area of the lake (acres and hectares);
 - 3) maximum depth of the lake (feet and meters);
 - 4) average lake depth (feet and meters);
 - 5) hydraulic residence time;
 - 6) the area of the watershed draining to the lake (acres and hectares);
 - 7) the physical, chemical, and biological quality of the lake and important lake tributary waters;
 - 8) bathymetric maps;
 - 9) if dredging is expected to be included in the restoration activities, an analysis of representative bottom sediment core samples for phosphorus, nitrogen, heavy metals and other chemicals appropriate to the State water quality standards contained in 35 Ill. Adm. Code: Subtitle C, Chapter I and for persistent synthetic organic chemicals where appropriate;

- 10) if dredging is expected to be included in the restoration activities, the results of elutriate testing pursuant to 35 Ill. Adm. Code 186;
 - 11) an assessment of the phosphorus, nitrogen, and sediment inflows and outflows associated with the lake and a hydraulic budget including groundwater flow;
 - 12) vertical temperature and dissolved oxygen data for the lake to determine if the hypolimnion becomes anaerobic and, if so, for how long and over what extent of the bottom;
 - 13) total and dissolved phosphorus, nitrite, nitrate, ammonia and organic nitrogen concentrations for the lake;
 - 14) measured chlorophyll values for the upper mixing zone;
 - 15) representative alkalinities;
 - 16) an assessment of the algal growth limiting nutrient, based on total nitrogen to total phosphorus ratios;
 - 17) a discussion of the extent of algal blooms and the predominant algal genera;
 - 18) algal biomass, determined through algal genera identification, cell density counts (numbers of cells per milliliter), and converted to cell volume based on factors derived from direct measurements, and reported in biomass of each major genus identified;
 - 19) Secchi disc depth and suspended solids measurements;
 - 20) an estimate (and map) of the portion of the shoreline and bottom that is impacted by vascular plants (submersed, floating, or immersed higher aquatic vegetation), specifically the lake surface area between 0 and the 30 foot (10 meter) depth contour or twice the Secchi disc transparency depth, whichever is less, including identification of the predominant species;
 - 21) an estimate of the sediment load to the lake via shoreline erosion, and a map depicting the location and severity of shoreline erosion;
 - 22) for lakes subject to significant public contact use or fished for consumption, standard bacteriological analyses and fish flesh analyses for organic and heavy metal contamination shall be included unless otherwise specified in the financial assistance agreement. All sample analyses shall be conducted by a laboratory certified by the Agency as capable of carrying out water quality analyses. Samples shall be sent to an Agency laboratory for quality assurance and quality control analysis as agreed to by the lake owner and the Agency in the financial assistance agreement.
- k) An identification and discussion of the lake's biological resources, such as fish population, and a discussion of the major known ecological relationships.

Section 367.1030 Phase I Feasibility Study

The Phase I Feasibility Study shall include the following elements:

- a) An identification and discussion of the alternatives considered for pollution control or lake restoration and an identification and justification of the selected alternatives. This shall include, for each alternative, including the selected alternative, a discussion of the following issues:
 - 1) expected water quality improvement;
 - 2) technical feasibility;

- 3) estimated costs of each alternative;
- 4) for each alternative, detailed descriptions that:
 - A) specify exactly what activities would be undertaken;
 - B) show how and where these procedures would be implemented;
 - C) illustrate the engineering specifications that would be followed, including preliminary engineering drawings to show in detail the construction aspects of the project; and
 - D) present a quantitative analysis of the pollution control effectiveness and the lake water quality improvement that is anticipated.
- b) A discussion of the particular benefits expected to result from project implementation, including new public water uses that may result from the enhanced water quality.
- c) A lake monitoring program, including a water quality sampling schedule, that meets the requirements of Section 367.630 of this Part.
- d) A proposed work schedule for completing the project, with milestones and a proposed budget and payment schedule that are related to the milestones.
- e) A detailed description of how non-State funds will be obtained for the proposed project.
- f) A summary of public participation in developing and assessing the proposed project that is in compliance with Section 367.520 of this Part. The summary shall describe the matters brought before the public, the public response, and the lake owner's response to significant comments.
- g) A description of the operation and maintenance plan that the lake owners will follow, including the time frame over which this plan will be operated, to ensure that the pollution controls implemented during the project are continued after the project is completed.
- h) If applicable, copies of all permits or pending permit applications (including the status of applications) necessary to satisfy the requirements of Sections 401 and 404 of the Federal Water Pollution Control Act (33 USC 1341, 1344).
- i) If the approved project includes dredging activities or other activities requiring permits, the lake owner must obtain from the U.S. Army Corps of Engineers and the Agency the permits required for the discharge of dredged or fill material. The lake owner shall provide any additional information required to obtain these permits. Copies of federal permit applications and any associated correspondence must be provided to the Agency at the time they are submitted to the U.S. Army Corps of Engineers. After reviewing the permit applications, the Agency may provide, pursuant to Section 401 of the Federal Water Pollution Control Act, recommendations for appropriate controls and treatment of supernatant derived from dredged material disposal sites to ensure the maximum effectiveness of lake restoration procedures.

Section 367.1040 Environmental Evaluation

As part of the Phase I study, award recipients shall submit to the Agency an environmental evaluation that consists of full and complete answers to the following questions. (Recipients are also encouraged to address other considerations that they believe apply to their particular project.)

- a) Will the proposed project displace any people?
- b) Will the proposed project deface existing residences or residential areas? What mitigating actions such as landscaping, screening, or buffer zones have been considered? Are they included?
- c) Will the proposed project be likely to lead to a change in established land use patterns, such as increased development pressure near the lake? To what extent and how will this change be controlled through land use planning, zoning, or through other methods?
- d) Will the proposed project adversely affect a significant amount of prime agricultural land or agricultural operations on such land?
- e) Will the proposed project result in a significant adverse effect on park land, other public land, or lands of recognized scenic value?
- f) Has the State Historical Preservation Agency been contacted? Has the award recipient received a response and, if so, what was the nature of that response? Will the proposed project result in a significant adverse effect on lands or structures of historic, architectural, archaeological or cultural value?
- g) Will the proposed project lead to a significant long-range increase in energy demands?
- h) Will the proposed project result in significant and long range or short range adverse changes in ambient air quality or noise levels?
- i) If the proposed project involves the use of in-lake chemical treatment, what long and short term adverse effects can be expected from that treatment? How will the award recipient mitigate these effects?
- j) Is the proposed project located in a floodplain? If so, will the project involve construction of structures in the floodplain? What steps will be taken to reduce the possible effects of flood damage to the project?
- k) If the project involves physically modifying the lake shore or its bed or its watershed, by dredging, for example, what steps will be taken to minimize any immediate and long term adverse effects of such activities? When dredging is employed, where will the dredged material be deposited, what can be expected and what measures will the recipient employ to minimize any significant adverse impacts from its deposition?
- l) Will the proposed project have a significant adverse effect on fish and wildlife, or on wetlands or any other wildlife habitat, especially those of endangered species? How significant is this impact in relation to the local or regional critical habitat needs? Have actions to mitigate habitat destruction been incorporated into the project? Has the award recipient consulted with the Illinois Department of Natural Resources and with the U.S. Fish and Wildlife Service? What were their replies?
- m) Describe any feasible alternatives to the proposed project in terms of environmental impacts, commitment of resources, public interest and costs and discuss why they were not proposed.
- n) Describe any other measures not discussed previously that are necessary to mitigate adverse environmental impacts that may result from the implementation of the proposed project.

Section 367.1150 Approval of Phase I Recommended Alternatives

Prior to final selection of the restoration or protection alternatives and completion of the final Phase I report, the award recipient shall submit to the Agency for approval an interim report that consists of the information set out in Section 367.1030(a) of this Part, along with a summary of public participation pursuant to Section 367.520(b) of this Part.