

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 870
PROCEDURES FOR ISSUING MUNICIPAL WASTE PLANNING AND
NONHAZARDOUS SOLID WASTE OR MUNICIPAL WASTE ENFORCEMENT
GRANTS

SUBPART A: INTRODUCTION

Section	
870.101	Purpose
870.102	Definitions
870.103	Severability

SUBPART B: MUNICIPAL WASTE PLANNING GRANTS

Section	
870.201	Grant Assistance Availability
870.202	Assistance Amount
870.203	Allocation
870.204	Required Content of Applications for MWP Grants
870.205	Agency Action on Application
870.206	Grant Award and Acceptance
870.207	Grantee Responsibilities
870.208	Supplemental SWP Grants (Repealed)
870.209	Grant Payment Schedule
870.210	Noncompliance with Grant Conditions
870.211	Indemnity
870.212	Guidance for Planning (Repealed)

SUBPART C: NONHAZARDOUS SOLID WASTE OR MUNICIPAL WASTE
ENFORCEMENT GRANTS

Section	
870.301	Grant Assistance Availability
870.302	Assistance Amount
870.303	Required Content of Applications for SMWE Grants
870.304	Agency Action on Application
870.305	Grant Award and Acceptance
870.306	Evaluation of Performance
870.307	Supplemental SWE Grants (Repealed)

870.308	Grant Payment Schedule
870.309	Noncompliance with Grant Conditions
870.310	Indemnity

AUTHORITY: Implementing and authorized by Section 22.15 of the Environmental Protection Act [415 ILCS 5/22.15].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 17780, effective September 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 9585, effective May 15, 1987; amended at 14 Ill. Reg. 19024, effective November 13, 1990; amended at 15 Ill. Reg. 9311, effective June 18, 1991; amended at 19 Ill. Reg. 11861, effective August 3, 1995.

SUBPART A: INTRODUCTION

Section 870.101 Purpose

- a) The Illinois Solid Waste Management Act [415 ILCS 20] amended the Environmental Protection Act [415 ILCS 5] (Act) by adding Section 22.15 of the Act which authorized the Environmental Protection Agency to:
 - 1) *Provide financial assistance to units of local government in planning for the management of nonhazardous solid waste or municipal waste where alternatives to disposal of nonhazardous solid waste or municipal waste in a sanitary landfill will receive full evaluation and consideration in the planning process; or in plans prepared pursuant to the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act [415 ILCS 5/22.15(g)]; and*
 - 2) *Provide financial assistance to units of local government for the performance of inspecting, investigating and enforcement activities pursuant to Section 4(r) of the Act at nonhazardous solid waste or municipal waste disposal sites [415 ILCS 5/22.15(h)].*
- b) This part sets forth the procedures used by the Agency in the issuance of grants to units of local government for:
 - 1) planning for the management of municipal waste in accordance with Section 22.15(g) of the Act [415 ILCS 5/22.15(g)] of the Act; and
 - 2) inspecting, investigating and enforcement activities at nonhazardous solid waste or municipal waste disposal sites in accordance with Section 22.15(h) [415 ILCS 5/22.15(h)].

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.102 Definitions

For purposes of this Part, the words and terms used in this Part shall have the meanings below. Words and terms not defined in this Part, if defined in the Environmental Protection Act [415 ILCS 5], shall have the meanings as defined therein. Words and terms not defined in this Part and not defined in the Environmental Protection Act [415 ILCS 5] shall have the meaning as defined in the Solid Waste Planning and Recycling Act [415 ILCS 15].

“Act” or “Environmental Protections Act” means the Environmental Protection Act at 415 ILCS 5.

“Advertising” means costs for advertising related to grant activities. Public notices, newspaper advertisements, and consultant procurement costs are typically included in the advertising category.

“Agency” means the *Environmental Protection Agency established by the Environmental Protection Act*. (Section 3.01 of the Act)

“Allowable costs” means allocable project costs of the grantee that are reasonable and necessary. These may include, but are not limited to:

- Costs of salaries, benefits, and expendable material incurred by the grantee for the project, except as provided in 35 Ill. Adm. Code 871.601(b)(7);
- Professional and consultant services;
- Project feasibility and engineering reports; and
- Materials acquired, consumed, or expended specifically for the project.

“Amortization” means the prorating of appropriate other direct costs over a useful life, and the subsequent submittal of the prorated cost to the Agency for reimbursement.

“An accounting” means a compilation of documentation to establish, substantiate and justify the nature and extent of the charges for which the grantee is requesting reimbursement.

“Applicant” means the unit of local government that is applying for a municipal waste planning or nonhazardous solid or municipal waste enforcement grant under Section 22.15 of the Act.

“Combustion”, as applied to municipal waste, means the incineration of

municipal waste for either energy recovery or volume reduction.

“Commercial waste”, as applied to municipal waste, means nonhazardous waste originating from wholesale, retail, or service establishments such as office buildings, stores, markets, theaters, hotels, motels, and warehouses.

“Composting” *means the biological treatment process by which microorganisms decompose the organic fraction of waste, producing compost.* (Section 3.70 of the Act)

“Computer charges” means expenses related to the lease or rental of computers, printers, and accessories.

“Conference or training registration” means expenses related to registration for conferences, workshops, seminars, and training that are grant-related.

“Construction or demolition debris”, as applied to municipal waste, means nonhazardous materials, such as broken concrete, stone, rock, bricks or building or construction debris resulting from construction or demolition activities.

“Content”, as applied to municipal waste, means the composition or characterization of that waste.

“Contractor” means the person, as defined in Section 3.26 of the Act, to whom a subagreement is awarded.

“Delegation agreement” means an agreement authorized by Section 4(r) of the Act under which the Agency may delegate inspection, investigation and enforcement authority at nonhazardous solid or municipal waste facilities or sites to a unit of local government.

“Direct labor costs” means expenses for personnel working on grant-related activities that can be directly identified to the grant. These costs may include costs for the applicant’s or grantee’s direct personnel, in-kind contributions, and fringe benefits, but do not include contractors’ costs.

“Direct personnel costs” means expenses for an applicant’s or grantee’s employees that can be directly identified to the grant. These costs do not include subcontractors’ costs.

“Directly identifiable costs” means grant expenses that can be

documented and traced to allowable grant activities and are supported by accurate and adequate documentation, such as timesheets, receipts, logs and vouchers.

“Economic assessment” means a study, review, or evaluation of the economic effects of a particular municipal waste management option or combination of options on the study area.

“Environmental assessment” means a study, review, or evaluation of the environmental effects of a particular municipal waste management option or combination of options on the study area.

“Equipment” means items to be purchased for grant activities that individually cost \$50 or more and have a useful life of one year or more. These typically include office furniture, computers and printers, calculators and adding machines, and cameras.

“Expensed” means that requests for reimbursement for other direct costs are submitted by the grantee during the year in which the costs were accrued.

“Facilities, projects or programs”, as applied to municipal waste management, means existing and proposed sites, operations, activities, and other recommended actions related to municipal waste management planning.

“Fringe benefits” means benefits for the applicant’s or grantee’s personnel. These may include, but are not limited to, social security, retirement, unemployment insurance, workers’ compensation, and health insurance.

“Garbage” means *waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage, and sale of produce.* (Section 3.11 of the Act)

“General household waste”, as applied to municipal waste, means nonhazardous solid waste originating in single and multiple-family dwellings.

“Grant agreement” means the written agreement and amendments thereto between the Agency and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties.

“Grantee” means the unit of local government that has been awarded a

grant for municipal waste planning or nonhazardous solid or municipal waste enforcement under Section 22.15 of the Act.

“Implementation”, as applied to municipal waste planning, means activities related to the initiation or execution of facilities, projects, or programs included in an adopted waste management plan.

“Indirect Costs” means those costs incurred by an applicant or grantee for a common or joint purpose but benefitting more than one cost objective, and not readily identifiable to the cost objectives specifically benefitted. Procedures for the determination of indirect costs and indirect cost rates are found at 35 Ill. Adm. Code 871. Appendix B.

“Industrial lunchroom or office waste” means non-industrial waste produced in industrial lunchrooms, cafeterias or food-serving functions, or offices.

“In-kind contributions” means goods and services donated to the applicant’s or grantee’s grant program by a second unrelated party. These goods and services must be contributed to the applicant or grantee and a fair market value must be assigned to these contributions.

“Institutional waste”, as applied to municipal waste, means non-industrial waste originating in facilities such as schools, hospitals, correctional facilities, and research institutions.

“Landscape Waste” means *all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.* (Section 3.20 of the Act)

“Licensed professional engineer” means an individual currently licensed to practice professional engineering in the State of Illinois.

“Local Solid Waste Disposal Act” or “LSWDA” means the Local Solid Waste Disposal Act at 415 ILCS 10.

“Municipal joint action agency” means a planning or implementation agency formed pursuant to Section 3 of the Intergovernmental Cooperation Act [5 ILCS 220/3] consisting of any two or more municipalities, counties, or combination thereof formed by intergovernmental agreement to provide for efficient and environmentally sound collection, transportation, processing, storage, and disposal of municipal waste.

“Municipal waste” means *garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, and construction or demolition debris*. (Section 3 of the Solid Waste Planning and Recycling Act [415 ILCS 15/3]).

“Municipal waste management plan” means a program designed to manage municipal waste over a 20-year period. Plans shall include an evaluation of the existing municipal waste management system and a set of recommended actions that matches municipal waste management alternatives to applicable portions of the waste stream, and shall be adopted in accordance with the Solid Waste Planning and Recycling Act [415 ILCS 15].

“Municipal waste management planning” means the evaluation of various municipal waste management alternatives, using economic, energy, environmental, political, and technical criteria appropriate to the planning area, for incorporation in a municipal waste management plan to be adopted in accordance with the Solid Waste Planning and Recycling Act [415 ILCS 15].

“Nonhazardous Municipal Waste Planning Grants” or “MWP” Grants means grants issued pursuant to Section 22.15(g) of the Act and Subpart B of this Part.

“Municipal Waste Planning Grants” or “MWP Grants” means grants issued pursuant to Section 22.15(g) of the Act and Subpart B of this Part.

“Nonhazardous Solid Waste or Municipal Waste Enforcement Grants” or “SMWE Grants” means grants issued pursuant to Section 22.15(h) of the Act and Subpart C of this Part.

“Office lease and utility expenses” means expenses for the lease or rental of office space and the concomitant utility expenses such as for heat and electricity.

“Origin”, as applied to municipal waste, means the source of that waste, such as the general household, commercial, or institutional sector of the waste stream.

“Other direct costs” means those grant costs that can be directly identified as grant-related. These include travel, equipment, supplies, postage, advertising, computer charges, telecommunications, office lease and utility costs, vehicle charges, printing, and conference and training registration.

“Outputs” means all draft and final reports, documents, plans, and other materials produced for grant program elements. These include Phase I-Needs Assessments and Phase II-Municipal Waste Management Plans adopted in accordance with the provisions of the Solid Waste Planning and Recycling Act [415 ILCS 15].

“Phase I MWP Grant” means a Municipal Waste Needs Assessment Grant issued pursuant to Section 22.15(g) of the Act and 35 Ill. Adm. Code 870.204(b).

“Phase II MWP Grant” means a Municipal Waste Planning Grant issued pursuant to Section 22.15(g) of the Act and 35 Ill. Adm. Code 870.204(c).

“Phase III MWP Grant” means a Municipal Waste Implementation Planning Grant issued pursuant to Section 22.15(g) of the Act and 35 Ill. Adm. Code 870.204(d).

“Postage” means expenses for transmitting mail and packages for grant activities. These typically include regular, certified, express mail, and shipping charges for packages.

“Printing” means expenses related to copying, printing, reproduction, and document preparation.

“Program elements” means all activities, tasks, duties, assignments, functions, or responsibilities to be conducted to complete grant outputs, projects or programs.

“Recycling center” means *a site or facility that accepts only segregated, nonhazardous, nonspecial, homogenous, nonputrescible materials, such as dry paper, glass, cans or plastics, for subsequent use in the secondary materials market.* (Section 3.81 of the Act)

“Recycling program” means facilities, projects, activities, or recommendations included in a municipal waste management plan that comply with the provisions of the Solid Waste Planning and Recycling Act [415 ILCS 15].

“Recycling, reclamation or reuse” means *a method, technique or process designed to remove any contaminant from waste so as to render such waste reusable, or any process by which materials that would otherwise be disposed of or discarded are collected, separated or processed and returned to the economic mainstream in the form of raw materials or*

products. (Section 3.30 of the Act)

“Solid Waste” means *waste.* (Section 3.82 of the Act)

“Solid Waste Management Act” means the Solid Waste Management Act at 415 ILCS 20.

“Solid Waste Planning and Recycling Act” or “SWPRA” means the Solid Waste Planning and Recycling Act at 415 ILCS 15.

“Source reduction”, as applied to municipal waste, means the design, manufacture, acquisition, purchase, or use of materials or products to reduce the amount or toxicity of municipal waste before it enters the municipal waste stream. This may be accomplished through the redesign of manufacturing processes; redesign of products; changes in consumers’ purchasing decisions, use, and disposal habits; and backyard composting.

“State” means the State of Illinois.

“Subagreement” means a written agreement between the grantee and another party, such as a contractor, and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts for personal and professional services and purchase orders.

“Subcontractor progress report” means a summary of a subcontractor’s progress in meeting its tasks required under a grantee subagreement. Subcontractor progress reports shall include: the tasks completed during the reporting period; a description of any problems or delays; and a listing of current billing information. Subcontractors shall submit progress reports to grantees for transmittal to the Agency in accordance with the schedule in the grant agreement.

“Supplies” means items to be purchased for grant activities that have an individual cost of less than \$50 and a useful life of less than one year and/or are personal (fitted or sized, such as gloves and boots) in nature.

“Telecommunications” means expenses related to telecommunications, such as telephone installation and usage, portable telephones, and pagers.

“Transfer station” means *a site or facility that accepts waste for temporary storage or consolidation and for further transfer to a waste disposal, treatment or storage facility. “Transfer station” includes a site where waste is transferred from:*

A rail carrier to a motor vehicle or water carrier;
A water carrier to a rail carrier or motor vehicle;
A motor vehicle to a rail carrier, water carrier or motor vehicle;
A rail carrier to a rail carrier, if the waste is removed from a rail car; or
A water carrier to a water carrier, if the waste is removed from a vessel. (Section 3.83 of the Act)

“Travel” means expenses related to the applicant’s or grantee’s execution of grant-related activities while on travel status. These typically include mileage, transportation, lodging, meals or per diem, and parking.

"Unallowable costs" means costs that exceed the total amount of the grant offer or which are not necessary for completion of the work required by the grant agreement. Such costs include, but are not limited to:

- Areawide planning or enforcement not directly related to the project;
- Bonus payments not legally required for completion of the project;
- Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or otherwise;
- Fines and penalties resulting from violations of, or failure to comply with, federal, State or local laws;
- Costs outside the scope of the approved planning or enforcement project;
- Interest on bonds or any other form of indebtedness required to finance the project costs;
- Ordinary operating expenses of local governments, such as salaries and expenses of a mayor, city council members, or city attorney, except as provided in 35 Ill. Adm. Code 871.601(d);
- Site acquisition (for example, sanitary landfills and sludge disposals areas);
- Costs for which payment has been or will be received under another State or federal assistance program;
- Costs of equipment or material procured in violation of any of the 35 Ill. Adm. Code 871 provisions;
- Costs of special funds (i.e., industry advancement funds; funds to reimburse bidding costs to unsuccessful offerors, etc.) financed by contractors, contributions in the industry for methods and materials research, public and industry relations, market development, labor-management matters, wage negotiations, jurisdictional disputes, or defraying of all or part of unsuccessful

offerors' bidding costs;

Costs under contracts that are incurred after the expiration of the applicable contractual completion date, even if the contractual completion date is subsequently extended by the grantee, unless such extension has been approved by the Agency in accordance with 35 Ill. Adm. Code 871.402;

Personal and professional consultant services costs arising under cost-plus-percentage-of-cost type of agreement (including the multiplier contract where profit is in the multiplier);

Personal and professional consultant services costs when the Agency has been refused access to the books and records of the contractor or the contractor has refused to renegotiate a personal or professional services contract in accordance with 35 Ill. Adm. Code 302; and

Increases in personal and professional consultant services contract fees which are based solely on a percentage of increased costs notwithstanding the contractual liabilities of the grantee under such contract.

"Unit of local government" means a municipality, county, or a municipal joint action agency pursuant to Section 3 of the Intergovernmental Cooperation Act [5 ILCS 220/3], or if the context requires, the member municipalities of such an agency or its territory.

"Vehicle changes" means costs for the lease, rental, purchase or utilization of a vehicle for grant activities. If a vehicle is purchased, only an amortized amount, calculated over a 36 month lifespan, may be reimbursed by the Agency.

"Volume reduction at the source" means source reduction.

"Waste" means *any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined in the Atomic Energy Act of 1954, as amended (68 U.S.C. 921) or any solid or dissolved materials from any facility subject to the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto, except that for the purposes of this*

Part, waste does not include hazardous waste. (Section 3.53 of the Act)

"Waste audit" or "Waste stream audit", as applied to municipal waste, means a systematic accounting of materials (inputs) and products or waste (outputs) to identify potential waste reduction or recycling opportunities.

"Waste characterization study", as applied to municipal waste, means a study designed to determine estimates of the composition or characterization of that waste.

"Waste generation", as applied to municipal waste, means the weight or volume of materials and products as they enter the municipal waste stream, and before materials recovery, combustion, or landfilling occur.

"Waste reduction", as applied to municipal waste, means all municipal waste management methods resulting in a reduction of municipal waste requiring final disposal. Municipal waste reduction includes, but is not limited to, source reduction, recycling, composting, and shredding and compaction of municipal waste.

"Waste stream", as applied to municipal waste, means the waste generated by a specific sector as it moves from generation to final handling. A waste stream may include the municipal waste stream components, the total waste stream, or any component thereof.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.103 Severability

If any Section, subsection, sentence or clause of this Part shall be adjudged unconstitutional, void, invalid or otherwise unlawful, such adjudication shall not affect the validity of this Part as a whole, or any Section, subsection, sentence or clause thereof not adjudged unconstitutional, void, invalid or otherwise unlawful.

SUBPART B: MUNICIPAL WASTE PLANNING GRANTS

Section 870.201 Grant Assistance Availability

- a) Subject to the availability of funding and the limitations and requirements set forth in this Part, grant assistance is available for the following planning projects and programs for the management of municipal waste:
 - 1) Phase I MWP Grants (Municipal Waste Needs Assessment).

- 2) Phase II MWP Grants (Municipal Waste Planning).
 - 3) Phase I and II MWP Grants (Municipal Waste Needs Assessment and Planning).
 - 4) Phase III MWP Implementation Grants (Municipal Waste Implementation Planning).
- b) The State share for total eligible costs for MWP Grants shall not exceed 70 percent.
 - c) Forms and instructions for applying for grant funding will be made available to eligible units of local government by the Agency.
 - d) As of September 1, 1995, no applications for Phase I or Phase II Grants will be accepted by the Agency.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.202 Assistance Amount

- a) The amount of assistance to be provided to an applicant will be based on:
 - 1) Identification of a need for planning in the affected area for management of municipal waste;
 - 2) Provision of a specific means for satisfying that need through development of information conducive to the full evaluation and consideration of each preferred alternative to landfill facilities as identified in Section 2(b) of the Illinois Solid Waste Management Act;
 - 3) Demonstration that the costs of the work program do not exceed the benefits from the proposed outputs. If the Agency's evaluation indicates that the proposed outputs do not justify the level of funding requested, the Agency may reduce the assistance amount; and
 - 4) The extent to which the applicant's work program is demonstrated to be necessary and appropriate and to the extent that the anticipated cost of the applicant's program is proportionate to the proposed outputs.
- b) No combination of MWP Phase I and II Grants issued under this Subpart may provide aggregate financial assistance in excess of \$500,000.
- c) Counties and municipal joint action agencies shall be eligible for Phase III Municipal Waste Implementation Planning Grants. No Phase III Municipal Waste Implementation Planning Grant issued under this Subpart shall provide financial assistance in excess of \$500,000.
- d) Phase III Municipal Waste Implementation Planning Grants will not be issued to counties and municipal joint action agencies without an adopted plan that has been deemed by the Agency to meet the requirements of the Solid Waste Planning and Recycling Act and any other applicable State legislation. These grants will provide funding for further planning

toward implementation of municipal waste management alternatives identified in adopted plans. These adopted plans may be developed with State financial assistance. The issuance of Phase III grants is not contingent upon receipt of previous State financial assistance.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.203 Allocation

- a) MWP Phase I and II grant funds shall be allocated for approved applications in the order of receipt of complete applications, to the extent that funds are available and appropriate. Priority in awarding grant funding shall be given to applicants that:
 - 1) Have received no prior MWP grants; or
 - 2) Are conducting planning in areas for which no previous planning activities have occurred.
- b) The Agency shall make application forms, and other forms, and instructions available to counties and municipal joint action agencies to apply for Phase III grant funding. The Agency shall accept applications for Phase III Municipal Waste Implementation Planning Grants only on December 30 and June 30 of each year. If either of these dates falls on a weekend or a State holiday, applications will be accepted on the next business day. Applicants must submit applications on forms prescribed and provided by the Agency.
 - 1) To the extent that funds are available and appropriated, priority in reviewing grant applications shall be given to applicants based on the date and time that a complete application is received from the grant applicant by the Planning and Grants Unit, Solid Waste Management Section, Division of Land Pollution Control, Bureau of Land, Illinois Environmental Protection Agency. For purposes of review prioritization, a complete Phase III grant application must:
 - A) Include an ordinance or resolution by the applicant certifying that a municipal waste management plan has been adopted in accordance with the provisions of the Solid Waste Planning and Recycling Act. If the plan has been revised after initial adoption, a resolution or ordinance that designates the revisions as part of the plan must be submitted;
 - B) Include an ordinance or resolution by the applicant certifying that implementation of the plan, including the recycling program, has begun within one year after plan adoption; and
 - C) Adequately address the provisions of Section 870.204(d) of this Part, including but not limited to:

- i) A description of the facilities, projects, and programs included in the adopted municipal waste management plan, for which funding is requested, with priority given to projects or programs that are designed to produce significant increases in waste reduction or recycling;
 - ii) The tasks to be completed for the facility, project, or program. This information shall be specific to the facility, project, or program, and shall address the provisions of Section 870.204(d)(4) (A) through (D) of this Part;
 - iii) A work program to be carried out under the grant, including a schedule for completing tasks and program elements, costs for each program element, and outputs for each program element; and
 - iv) Cost justification for the amount requested, including a budget submitted on forms provided and prescribed by the Agency, in accordance with instructions provided by the Agency.
- 2) *Priority in the awarding of such assistance shall be given to projects and programs that are designed to produce significant increases in waste reduction or recycling.* (Section 22.15.(g) of the Act) The Agency shall approve or disapprove complete applications in accordance with Section 870.205 of this Part.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.204 Required Content of Applications for MWP Grants

- a) MWP Grants will not be awarded unless complete, acceptable applications are filed in accordance with the requirements of this Section.
- b) A complete, acceptable application for a MWP Grant for a Phase I -- Municipal Waste Needs Assessment shall address and provide information for the following:
 - 1) The geographic area to be encompassed by the grant, including demographic data.
 - 2) The methods to be used in assessing municipal waste needs and obtaining the information required under subsection (b)(3) below. These may include, but are not limited to, surveys, literature reviews, waste characterization studies, and weighing and sorting projects. The statistical methodology that will be used to ensure that the data to be collected is accurate shall be included.

- 3) Methods and procedures by which the following information will be acquired:
 - A) Origin, content, and weight or volume of municipal waste currently generated;
 - B) Origin, content, and weight or volume of municipal waste annually disposed in landfills;
 - C) Origin, content, and weight or volume of municipal waste annually recycled, reclaimed, or reused;
 - D) Origin, content, and weight or volume of municipal waste annually combusted for energy recovery;
 - E) Origin, content, and weight or volume of municipal waste annually combusted for volume reduction;
 - F) Weight or volume of municipal waste annually transported into (imported) and out of (exported) the study area;
 - G) Average distance municipal waste is transported before final handling;
 - H) Weight or volume and handling methods used for municipal waste managed on-site; and
 - I) *A description of the facilities where municipal waste is currently being processed or disposed of and the remaining available permitted capacity of such facilities.*
(Section 4 of the SWPRA)
- 4) Projections of information required under subsection (b)(3) above for twenty years from the study date as required by the SWPRA.
- 5) The work program to be carried out under the grant. The work program must specify:
 - A) Number of months and/or work years needed for each program element;
 - B) The outputs committed to under each program element, including outputs required under subsections (b)(3) and (b)(4) above;
 - C) A schedule for accomplishment of outputs and the tasks to be accomplished to meet the outputs;
 - D) Identification of the unit of local government responsible for each of the elements and outputs; and
 - E) Identification of the public involvement process to be used in developing the program. At a minimum, such process shall provide for at least one public meeting to be held, after reasonable notice to the public, for the purpose of receiving public comment.
- 6) Cost justifications for the amount requested, including a budget submitted on forms prescribed and provided by the Agency for the expenses to be incurred. With the exception of indirect costs (as defined in 35 Ill. Adm. Code 871. Appendix B), all costs must be directly identified as grant related. To be directly identifiable

and eligible for grant reimbursement, expenses must be documentable and traceable to the grant.

- 7) The budget, which shall be submitted to the Agency on forms prescribed and provided by the Agency, shall include at a minimum:
 - A) Demonstration through an ordinance or resolution of source of funds for the local share.
 - B) Direct labor costs, which shall be itemized as follows:
 - i) Direct personnel;
 - ii) In-kind contributions;
 - iii) Fringe benefits.
 - C) Indirect costs, as defined and described in 35 Ill. Adm. Code 871. Appendix B.
 - D) Other direct costs include:
 - i) Travel;
 - ii) Equipment;
 - iii) Supplies;
 - iv) Postage;
 - v) Advertising;
 - vi) Computer charges;
 - vii) Telecommunications;
 - viii) Office lease and utility costs;
 - ix) Vehicle charges;
 - x) Printing; and
 - xi) Training and conference registration.
 - E) Subagreements.
 - F) Total estimated cost.
 - G) Source of funds by budget category.
 - H) Allocation of funds by State fiscal year.
 - I) Local contributions.
- c) Applicants for a MWP Grant for Phase II -- Municipal Waste Planning must submit applications that reflect the final plan adopted by the county as required by Section 4(b) of the Solid Waste Planning and Recycling Act on or before September 1, 1995. Such an application shall address and provide information for the following:
 - 1) The geographic area to be encompassed by the grant, including demographic data.
 - 2) An assessment of the municipal waste needs for the planning area which includes the information required under subsections (b)(3) and (b)(4) above.
 - 3) The outputs to be developed by the applicant in planning for the *effective and efficient management of solid or municipal waste in a manner that promotes economic development, protects the environment and public health and safety and allows the most practical and beneficial use of the material and energy values of*

solid or municipal waste. (Section 2(a)(4) of the Illinois Solid Waste Management Act)

- 4) The outputs to be developed by the applicant to assure that, with respect to all identified municipal waste needs for the planning area, *alternatives to disposal of nonhazardous waste in a sanitary landfill will receive full evaluation and consideration in the planning process or in plans prepared pursuant to the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act.* (Section 22.15(g) of the Act) The applicant must demonstrate the environmental, economic, and technical feasibility aspects of each alternative in accordance with *the following management hierarchy, in descending order of preference:*
 - A) *Volume reduction at the source.*
 - B) *Recycling and reuse.*
 - C) *Combustion with energy recovery.*
 - D) *Combustion for volume reduction.*
 - E) *Disposal in landfill facilities.* (Section 2(b) of the Illinois Solid Waste Management Act)
- 5) The methods to be used by the applicant to ensure development of a municipal waste management plan in accordance with the Solid Waste Planning and Recycling Act or the Local Solid Waste Disposal Act. These methods shall provide, at a minimum, the following:
 - A) *A description of the origin, content, and weight or volume of municipal waste currently generated within the planning area's boundaries, and the origin, content, and weight or volume of municipal waste that will be generated during the next 20 years, including an assessment of the primary variables affecting this estimate and the extent to which they can reasonably be expected to occur;*
 - B) *A description of the facilities where municipal waste is currently being processed or disposed of and the remaining available permitted capacity of such facilities;*
 - C) *A description of the facilities and programs that are proposed for the management of municipal waste generated within the planning area's boundaries during the next 20 years, including, but not limited to, their size, expected cost and financing method;*
 - D) *An evaluation of the environmental, energy, life cycle cost and economic advantages and disadvantages of the proposed waste management facilities and programs;*
 - E) *A description of the time schedule for the development and operation of each proposed facility or program;*

- F) *The identity of potential sites within the planning area where each proposed waste processing, disposal, and recycling program will be located or an explanation of how the sites will be chosen. For any facility outside the planning area that is proposed to be used, the plan shall explain the reasons for selecting such facility (Section 4 of the SWPRA);*
- G) *If the plan concludes that waste stream control measures are necessary to implement the plan, the identification of those measures (Section 3 of the Local Solid Waste Disposal Act);*
- H) *The identity of the governmental entity responsible for implementing the plan and an explanation of the legal basis for the entity's authority to do so (Section 6 of the SWPRA);*
- I) *Adequate provision for the present and reasonably anticipated future needs of the recycling and resource recovery interests within the area (Section 3 of the Local Solid Waste Disposal Act); and*
- J) *A description of the planning area's recycling program. Such recycling program:*
 - i) *Shall be designed to be implemented throughout the planning area's boundaries and shall include a time schedule for implementation.*
 - ii) *Shall provide for the designation of a recycling coordinator to administer the program.*
 - iii) *Shall be designed to recycle, by the end of the third and fifth years of the program respectively, 15% and 25% of the municipal waste generated in the planning area, subject to the existence of a viable market for the recycled material, based on measurements of recycling and waste generated in terms of weight. The determination of recycling rate shall not include: discarded motor vehicles, wastes used for clean fill or erosion control, or commercial, institutional, or industrial machinery or equipment.*
 - iv) *May provide for the construction and operation of one or more recycling centers by a unit of local government, or for contracting with other public or private entities for the operation of recycling centers.*
 - v) *May be designed to require residents to separate recyclable materials at the time of disposal or trash pick-up.*

- vi) *May be designed to make special provision for commercial and institutional establishments that implement their own specialized recycling programs, provided that such establishments annually provide written documentation of the total number of tons of material recycled in the planning area.*
 - vii) *Shall be designed to provide for separate collection and composting of leaves.*
 - viii) *Shall include public education and notification programs to foster understanding of and encourage compliance with the recycling program.*
 - ix) *Shall be designed to include provisions for compliance, including incentives and penalties.*
 - x) *Shall include provisions for recycling the collected materials, identifying potential markets for at least 3 recyclable materials, and promoting the use of products made from recovered or recycled materials among businesses, newspapers, and local governments in the planning area.*
 - xi) *May be designed to provide for the payment of recycling diversion credits to public and private parties engaged in recycling activities. (Section 6 of the SWPRA)*
 - K) *Any other information that the Agency may require. (Section 4 of the SWPRA)*
- 6) The work program to be carried out under the grant. The work program shall specify:
- A) The number of months and/or work years needed for each program element;
 - B) The outputs committed to under each program element including outputs required under subsections 870.204(c)(3) and (c)(4) above;
 - C) A schedule for accomplishment of outputs and the tasks to be accomplished to meet the outputs;
 - D) The unit of local government responsible for each of the elements and outputs; and
 - E) The public involvement process to be used in developing the program. At a minimum, such process shall comply with the public involvement process included in the Solid Waste Planning and Recycling Act, and provide for at least one public hearing to be held, after reasonable notice to the public, for the purpose of receiving public comment.

- 7) Cost justifications for the amount requested, including a budget submitted on forms prescribed and provided by the Agency for the expenses to be incurred. With the exception of indirect costs (as defined in 35 Ill. Adm. Code 871. Appendix B), all costs must be directly identified as grant-related. To be directly identifiable and eligible for grant reimbursement, expenses must be documentable and traceable to the grant.
- 8) The budget, which shall be submitted to the Agency on forms prescribed and provided by the Agency, shall include at a minimum:
 - A) Demonstration through an ordinance or resolution of the source of funds for the local share.
 - B) Direct labor costs, which shall be itemized as follows:
 - i) Direct personnel;
 - ii) In-kind contributions; and
 - iii) Fringe benefits.
 - C) Indirect costs, as defined and described in 35 Ill. Adm. Code 871. Appendix B.
 - D) Other direct costs, which shall include:
 - i) Travel;
 - ii) Equipment;
 - iii) Supplies;
 - iv) Postage;
 - v) Advertising;
 - vi) Computer charges;
 - vii) Telecommunications;
 - viii) Office lease and utility costs;
 - ix) Vehicle charges;
 - x) Printing; and
 - xi) Training and conference registration.
 - E) Subagreements.
 - F) Total estimated cost.
 - G) Source of funds by budget category.
 - H) Allocation of funds by State fiscal year.
 - I) Local contributions.
- d) A complete, acceptable application for a MWP grant for Phase III -- Municipal Waste Implementation Planning shall address and provide information for the following:
 - 1) The geographic area to be encompassed by the grant, including demographic data.
 - 2) A municipal waste management plan adopted in accordance with the provisions of the Solid Waste Planning and Recycling Act. Such plan shall include an ordinance or resolution by the applicant certifying that a municipal waste management plan has been adopted in accordance with the provisions of the Solid

Waste Planning and Recycling Act. If the plan has been revised after initial adoption, a resolution or ordinance which designates the revisions as part of the plan must be submitted. The municipal waste management plan shall address, at a minimum, the following:

- A) *A description of the origin, content, and weight or volume of municipal waste currently generated within the county's or municipal joint action agency's boundaries, and the origin, content, and weight or volume of municipal waste that will be generated within the county's or municipal joint action agency's boundaries during the next 20 years, including an assessment of the primary variables affecting this estimate and the extent to which they can reasonably be expected to occur;*
- B) *A description of the facilities where municipal waste is currently being processed or disposed of and the remaining available permitted capacity of such facilities;*
- C) *A description of the facilities and programs that are proposed for the management of municipal waste generated within the county's or municipal joint action agency's boundaries during the next 20 years, including, but not limited to, their size, expected cost and financing method;*
- D) *An evaluation of the environmental, energy, life cycle cost and economic advantages and disadvantages of the proposed waste management facilities and programs;*
- E) *A description of the time schedule for the development and operation of each proposed facility or program;*
- F) *The identity of potential sites within the county or municipal joint action agency where each proposed waste processing, disposal, and recycling program will be located, or an explanation of how the sites will be chosen. For any facility outside the county or municipal joint action agency that is proposed to be used. The plan shall explain the reasons for selecting such facility (Section 4 of the SWPRA);*
- G) *The identity of the governmental entity responsible for implementing the plan on behalf of the county or municipal joint action agency and explanation of the legal basis for the entity's authority to do so (Section 6 of the SWPRA);*
- H) *A description of the county's or municipal joint action agency's recycling program. Such recycling program:*

- i) *Shall be implemented throughout the county's or municipal joint action agency's boundaries, and shall include a time schedule for implementation;*
- ii) *Shall provide for the designation of a recycling coordinator to administer the program;*
- iii) *Shall be designed to recycle, by the end of the third and fifth years of the program respectively, 15% and 25% of the municipal waste generated in the county or municipal joint action agency, subject to the existence of a viable market for the recycled material, based on measurements of recycling and waste generated in terms of weight. The determination of recycling rate shall not include: discarded motor vehicles, wastes used for clean fill or erosion control, or commercial, institutional, or industrial machinery or equipment;*
- iv) *May provide for the construction and operation of one or more recycling centers by a unit of local government, or for contracting with other public or private entities for the operation of recycling centers;*
- v) *May require residents of the county or municipal joint action agency to separate recyclable materials at the time of disposal or trash pick-up;*
- vi) *May make special provision for commercial and institutional establishments that implement their own specialized recycling programs, provided that such establishments annually provide written documentation to the county or municipal joint action agency of the total number of tons of material recycled;*
- vii) *Shall provide for separate collection and composting of leaves;*
- viii) *Shall include public education and notification programs to foster understanding of and encourage compliance with the recycling program;*
- ix) *Shall include provisions for compliance, including incentives and penalties;*
- x) *Shall include provisions for recycling the collected materials, identifying potential markets for at least 3 recyclable materials and promoting the use of products made from recovered or recycled materials among businesses, newspapers, and*

- local governments in the county or municipal joint action agency; and*
- xi) *May provide for the payment of recycling diversion credits to public and private parties engaged in recycling activities (Section 6 of the SWPRA).*
 - I) *Any other information that the Agency may require. (Section 4 of the SWPRA)*
- 3) The facilities, projects, and programs included in the adopted municipal waste management plan for which funding is requested. These shall include:
- A) The facility, project, or program type;
 - B) The methods to be used to achieve significant increases in waste reduction or recycling;
 - C) The methods and tasks to be used in facility, project, or program implementation planning;
 - D) The area to be serviced by the facility, project or program;
 - E) The responsible unit of local government; and
 - F) The proposed owner and operator of the facility, project, or program.
- 4) The tasks to be completed under the grant. This information shall be specific to the selected facility, project or program. Unless it can be demonstrated to the Agency's satisfaction that these activities are not applicable, these categories shall include, but shall not be limited to:
- A) For waste reduction (including, but not limited to, source reduction, recycling, composting, and shredding or compaction of municipal waste):
 - i) Waste characterization studies;
 - ii) Waste stream audits;
 - iii) Waste reduction studies;
 - iv) Environmental assessments; and
 - v) Economic impact analysis.
 - B) For transfer station facilities:
 - i) Waste characterization studies;
 - ii) Computer modeling or simulations for air and noise emissions, and waste collection routings;
 - iii) Economic impact analysis; and
 - iv) Environmental assessments.
 - C) For combustion facilities:
 - i) Computer modeling or simulations for air and noise emissions;
 - ii) Economic impact analysis;
 - iii) Environmental assessments; and
 - iv) Waste characterization studies.

- D) For landfill facilities:
 - i) Soil sampling, including test borings and soil testing;
 - ii) Computer modeling or simulations for groundwater flow, waste collection routings, air emissions, and surface water impacts;
 - iii) Engineering and architectural drawings and plans;
 - iv) Requests for qualifications and requests for proposals;
 - v) Environmental assessments; and
 - vi) Economic impact analysis.
- 5) The work program to be carried out under the grant. The work program must specify:
 - A) Number of months and/or work years needed for each program element;
 - B) Total cost for each program element;
 - C) The outputs committed to under each program element;
 - D) A schedule for accomplishment of outputs and the tasks to be accomplished to meet the outputs; and
 - E) Identification of a licensed professional engineer registered in the State of Illinois who will be responsible for reviewing the appropriate outputs.
- 6) Cost justifications for the amount requested, including a budget submitted on forms prescribed and provided by the Agency for the expenses to be incurred. With the exception of indirect costs (as defined in 35 Ill. Adm. Code 871. Appendix B), all costs must be directly identified as grant-related. To be directly identifiable and eligible for grant reimbursement, expenses must be documentable and traceable to the grant.
- 7) The budget, which shall be submitted to the Agency on forms prescribed and provided by the Agency, shall include at a minimum:
 - A) Demonstration through an ordinance or resolution of the source of funds for the local share.
 - B) Direct labor costs, which shall be itemized as follows:
 - i) Direct personnel;
 - ii) In-kind contributions; and
 - iii) Fringe benefits.
 - C) Indirect costs, as defined and described in 35 Ill. Adm. Code 871. Appendix B.
 - D) Other direct costs, which shall include:
 - i) Travel;
 - ii) Equipment;
 - iii) Supplies;
 - iv) Postage;

- v) Advertising;
- vi) Computer charges;
- vii) Telecommunications;
- viii) Office lease and utility costs;
- ix) Vehicle charges;
- x) Printing; and
- xi) Training and conference registration.
- E) Subagreements.
- F) Total estimated cost.
- G) Source of funds by budget category.
- H) Allocation of funds by State fiscal year.
- I) Local contributions.
- 8) Items that are not eligible for a Municipal Waste Implementation Planning Grant shall include, but not be limited to, land purchase, purchase or lease of construction machinery, building materials or building legal fees, or lawsuit settlements.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.205 Agency Action on Application

Within 90 days after receipt, the Agency shall review each application and may approve each complete, acceptable application that meets all criteria and requirements pursuant to Section 870.204 of this Part, or disapprove each application that does not meet all criteria and requirements pursuant to Section 870.204 of this Part. When funds are available, the Agency will award assistance to approved applicants.

- a) Approval. Within 90 days after receipt of a complete, acceptable application that meets all criteria and requirements of Section 870.204 of this Part, the Agency shall submit written approval of the application to the applicant. If the Agency needs an extension of time beyond the 90 days, it will notify the applicant of such extension in writing. The application shall not be deemed automatically approved if the Agency fails to notify the applicant of approval or disapproval within 90 days after receipt. The Agency will approve the application only if it satisfies the terms, conditions, and limitations of Section 870.204 and relevant statutes and program regulations; and if achievement of the proposed outputs is feasible, considering the applicant's existing problems, past performance under previous grants, program authority, organization, availability of local share resources, and proposed methodologies for accomplishing outputs.
- b) Disapproval. For applications that are not approved, the Agency's review shall include written comments necessary to revise the application to develop a complete, acceptable application that meets all criteria and requirements pursuant to Section 870.204 of this Part. If the application cannot be approved, the Agency will negotiate with the applicant to

change the output commitments, to reduce the assistance amount, or to make any other changes necessary for approval. If negotiation fails, the Agency will disapprove the application in writing.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.206 Grant Award and Acceptance

- a) Where the Agency has approved an application, the Agency shall so notify the applicant in writing. The grant award notification shall include the following:
 - 1) All conditions of the grant, including:
 - A) Criteria and procedures for determining allowable costs;
 - B) The proportion of allowable costs that the State will pay under the grant (the " State share");
 - C) The grant payment schedule;
 - D) Requirements applicable to access, auditing, reporting and records; and
 - E) Requirements applicable to contractors and the grantee.
 - 2) Grounds and procedures for action by the Agency in the event of noncompliance with these rules or any grant conditions.
- b) Within 45 days after receipt of a grant award notification under this Section, the grantee shall notify the Agency in writing of its acceptance by submitting the grant agreement with appropriate signatures to the Agency. Failure to submit the notice of acceptance required by the grant offer during this period may result in:
 - 1) Withholding of the grant award;
 - 2) Termination of the grant award; or
 - 3) Such other action as the Agency may be authorized to take.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.207 Grantee Responsibilities

The recipient of a Phase I, Phase II, or a Phase I and II grant shall develop draft and final documents in accordance with the approved grant agreement's budget, scope of work, and schedule. Grantees shall submit draft sections of their documents and reports to the Agency for review and comment. Agency input shall be provided in response to these draft sections in a timely manner, not to exceed 90 days from receipt of outputs. The Agency shall make recommendations on the draft and final documents to ensure compliance with provisions of the grant award and to ensure production of an acceptable document. Grantees shall make revisions in response to Agency recommendations in a timely manner, not to exceed 90 days from receipt of Agency comments. Failure to develop and submit draft and final documents in accordance with

the approved grant agreement's budget, scope of work, and schedule may subject the grantee to the noncompliance provisions in Section 870.210 of this Part.

- a) Grantees shall collect and compile data as required by Section 870.204(b)(3) of this Part. Data collection methods shall be the most statistically accurate and economical within the scope of the grant award, and may include, but not be limited to, surveys, literature reviews, waste characterization studies, and weighing and sorting projects. Grantees shall make good faith efforts to collect and compile the most accurate and comprehensive data possible. Grantees are responsible for the reliability and verification of data presented in their documents.
- b) Grantees shall develop projections for data as required by Section 870.204(b)(4) of this Part. Information used to develop these projections shall include municipal waste generation data on a per capita basis and population and employment data. Any assumptions used to develop these projections shall be included and a single projection shall be selected for the required information.
- c) Grantees shall develop final documents for Phase I, Phase II, Phase I and II or Phase III MWP grants. These shall adequately address the applicable requirements of Section 870.204(b), (c) or (d) of this Part, the Solid Waste Planning and Recycling Act, the Local Solid Waste Disposal Act, and any other applicable legislation. The Agency will approve final documents and make final payments only after the requirements of Section 870.204(b), (c) or (d) of this Part, as applicable, have been addressed to the Agency's satisfaction and revisions have been made in response to the Agency's comments.
- d) Upon receipt of the grant, grantees shall identify a project manager to oversee the administration of the grant. The project manager shall be an employee of the grantee and shall not be a contractor hired by the grantee. The project manager shall act as the primary contact between the grantee and the Agency and shall have direct responsibility for project administration and completion. In the case of a multi-county regional planning grant, the counties shall designate a project manager to administer the grant on their behalf. This project manager shall maintain regular correspondence with each county and act as the liaison between the grantee and the Agency. The grantee shall notify the Agency in a timely manner of any changes in the project manager's status relative to the project.
Project managers shall oversee contractors hired by the grantee to complete the project. Project managers shall submit correspondence, reports and drafts, and requests for payment and subcontractor progress reports to the Agency on behalf of the grantee as well as any other materials required by the Agency, during the course of the project.
- e) Grantees shall submit outputs committed to under each program element in accordance with the schedule presented in the grant agreement. The Agency may issue no-cost time extensions to grantees to allow for

further time to complete the requirements of the grant agreement. Extensions shall not exceed one calendar year from the scheduled completion date in the original grant agreement. These shall be approved only if each of the following is met:

- 1) Agency evaluation of the grantee's performance and progress toward completing the outputs in the approved work program indicates that a good faith effort has been made;
 - 2) The grantee has submitted outputs on a quarterly basis, or in accordance with the schedule in the approved grant agreement;
 - 3) The grantee has submitted requests for payment and progress reports in accordance with the schedule included in the grant agreement; and
 - 4) The grantee submits a revised schedule for completing the remaining requirements of the grant agreement.
- f) The Agency will oversee each grantee's performance under the grant agreement. The Agency will evaluate grantee performance and progress toward completing the outputs in the approved work program according to the schedule in the grant agreement. The grantee shall submit outputs to the Agency on a quarterly basis or in accordance with the schedule in the approved grant agreement. The Agency will review grantee outputs for compliance with the grant agreement and provide comments to the grantee in a timely manner, not to exceed 90 days from receipt of the outputs. Grantees shall make revisions to draft documents in accordance with Agency comments before preparation of the final documents. If the evaluation reveals that the recipient is not achieving the conditions of the grant agreement to the Agency's satisfaction, the Agency will attempt to resolve the situation through negotiations. If agreement is not reached, the Agency may impose sanctions as set forth in Section 870.210 of this Part.
- g) Each Phase I, Phase II, Phase I and II or Phase III MWP grantee shall notify the Agency in writing when it has completed 50 percent of the work to be performed under the grant agreement. Upon receipt of the notification, the Agency shall schedule a meeting with the grantee to discuss the progress in meeting the requirements of the grant agreement and to determine whether the grantee will meet the requirements of the grant agreement in a timely manner.
- h) Under Phase I, Phase II, or Phase I and II MWP Grants final documents shall be sent to the Agency in a finished and printed form, with five copies, by the date set forth in the grant agreement. Each Phase I final report shall provide the information obtained, as specified in Section 870.204(b) of this Part. Each Phase II final report shall provide the information required as specified in Section 870.204(c) of this Part, including all conclusions, recommendations and demonstrations called for under the approved application. The Agency will review Phase I and

Phase II documents and make appropriate recommendations to ensure these meet the requirements of the grant agreement.

- i) Appropriate and relevant Phase III outputs, as defined in the grant agreement, shall be submitted to the Agency in accordance with the schedule in the grant agreement. The Agency will review Phase III documents and make appropriate recommendations to ensure these meet the requirements of the grant agreement. All design work related to facilities needing permits shall be prepared by, or under the supervision of, a Licensed Professional Engineer. The Licensed Professional Engineer shall affix the engineer's name, date of preparation, registration number, a statement attesting to the accuracy of the information and design, and a professional seal to all designs.

(Source: Section repealed, new Section added at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.208 Supplemental SWP Grants (Repealed)

(Source: Repealed at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.209 Grant Payment Schedule

- a) Requests for partial or final payment shall be sent by the grantee to the Agency and shall demonstrate the performance of work in accordance with the terms of the grant agreement. Requests shall be made according to the grant payment schedule. The Agency shall not make payment for requests for payment that are submitted by a grantee more than 12 months after the eligible grant expenses have been incurred. In addition, grantees shall submit grantee progress reports, on forms prescribed and provided by the Agency, in accordance with the grant agreement.
- b) With the exception of indirect costs (as defined in Section 871. Appendix B of this Part) all grant costs must be directly identified as grant-related. To be directly identifiable and eligible for grant reimbursement, expenses must be documentable and traceable to the grant and submitted on forms prescribed and provided by the Agency, in accordance with the Agency's instructions. Accurate documentation must be submitted by the grantee with the request for payment in accordance with the payment schedule in the grant agreement. If accurate documentation for all grant expenses cannot be provided by the grantee, reimbursement shall not be made.
- c) The grantee shall be paid the State share of allowable costs incurred within the scope of an approved project not to exceed the total grant, subject to the limitations of the conditions of the grant. Such payments must be in accordance with the payment schedule and the grant amount

set forth in the grant agreement. Where the Agency has issued a Phase I and II MWP Grant, the Agency will not make payment for Phase II work items until all Phase I work items have been completed in accordance with the terms of the grant agreement.

1) Requests for payment

The grantee shall submit requests for payments and progress reports to the Agency for allowable costs incurred in accordance with the payment schedule set forth in the grant agreement. The grantee shall include an accounting of all eligible grant expenses to the Agency with the requests for payment. Subject to the availability of appropriated funding, the Agency shall cause payment to be disbursed to the grantee upon receipt of accurate documentation with the request for payment. Such funds shall be disbursed so that the total amount of State payments made to the grantee for the project is equal to the State share of the actual or estimated allowable project costs incurred to date, as certified by the grantee in its most recent request for payment. Failure to submit requests for payments and progress reports in accordance with the payment schedule set forth in the grant agreement may subject the grantee to the noncompliance provisions of Section 870.210 of this Part.

2) Adjustment

At any time or times prior to final payment under the grant, the Agency may cause any request(s) for payment to be reviewed or audited by the Agency. Each subsequent payment shall be subject to reduction for amounts included in the related request for payment which are found, on the basis of such review or audit not to constitute allowable costs. Any payment will be reduced for overpayments or increased for underpayments on preceding requests for payment.

3) Refunds, rebates, credits, etc.

The State share of any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the grantee with respect to the project, to the extent that they are properly allocable to costs for which the grantee has been paid under a grant, must be paid to the State of Illinois Solid Waste Management Fund. Reasonable expenses incurred by the grantee for the purposes of securing such refunds, rebates, credits, or other amounts shall be allowable costs under the grant.

4) Final payment

The Agency will retain ten percent of all documented costs and will not issue payment for the retained amount until compliance with all applicable requirements of the grant has been demonstrated by the grantee. Upon compliance by the grantee with all applicable requirements of the grant, the Agency shall

cause to be disbursed to the grantee any balance of approved allowable project costs which has not been paid to the grantee. Prior to final payment under the grant, the grantee must execute and deliver an unconditional assignment to the Agency, on forms prescribed and provided by the Agency, of the State share of refunds, rebates, credits or other amounts (including any interest thereon) properly allocable to costs for which the grantee has been paid by the State under the grant, and a release discharging the State of Illinois, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the grant. Exceptions to such release shall be allowed only where the grantee is powerless as a matter of law, or precluded by litigation, from conveying such an unconditional release.

- 5) **Schedule of payment**
Payments for eligible grant expenses will be paid by the Agency in accordance with the payment schedule set forth in the grant agreement, subject to appropriation of funds by the Illinois General Assembly. Failure to submit requests for payment and grantee progress reports in accordance with the schedule in the grant agreement may subject the grantee to the noncompliance provisions in Section 870.210 of this Part.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.210 Noncompliance with Grant Conditions

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a MWP grant:
- 1) The grant may be annulled and all grant funds recovered;
 - 2) The grant may be terminated;
 - 3) The project work may be suspended;
 - 4) An injunction may be entered by an appropriate court; or
 - 5) Such other action as the Agency may be authorized to take.
- b) No action shall be taken under this Section without prior consultation with the grantee.
- c) Recovery actions taken under this Section shall be pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705].

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.211 Indemnity

The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of the Construction Contract Indemnification for Negligence Act [740 ILCS 35]. The grantee shall require that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of such contract or satisfaction of any and all claims arising thereunder.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.212 Guidance for Planning (Repealed)

(Source: Repealed at 19 Ill. Reg. 11861, effective August 3, 1995)

SUBPART C: NONHAZARDOUS SOLID WASTE OR MUNICIPAL WASTE ENFORCEMENT GRANTS

Section 870.301 Grant Assistance Availability

- a) Subject to the availability of funding and the limitation and requirements set forth in this Part, grant assistance is available to units of local government that have entered into written delegation agreements with the Agency pursuant to Section 4(r) of the Act under which the Agency has delegated all or portions of its inspecting, investigating and enforcement functions at nonhazardous solid waste or municipal waste disposal sites.
- b) The State share for total eligible costs for SMWE Grants shall not exceed 70 percent.
- c) SMWE Grants shall be issued with budget periods which shall be concurrent with the state fiscal year. SMWE Grants may be issued in subsequent fiscal years subject to funding availability and the requirements of this Part.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.302 Assistance Amount

- a) In determining the amount of assistance to an applicant, the Agency will evaluate the extent to which the applicant's work program is

- demonstrated to be necessary and appropriate and the anticipated cost of the applicant's program is proportionate to the proposed outputs.
- b) If the Agency's evaluation of the applicant's work program indicates that the proposed outputs do not justify the level of funding requested, the Agency will reduce the assistance amount.
 - c) No SMWE grant issued under this Subpart may provide financial assistance in excess of \$100,000.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.303 Required Content of Applications for SMWE Grants

- a) SMWE Grants will not be awarded unless complete, acceptable applications are submitted in accordance with the requirements of this Section. Forms and instructions for applying for grant funding will be made available to all eligible units of local government by the Agency.
- b) A complete, acceptable application for a SMWE Grant shall address the following:
 - 1) The geographic area to be encompassed by the grant.
 - 2) The status of a written delegation agreement pursuant to Section 4(r) of the Act.
 - A) Applicants with a current delegation agreement shall provide the following:
 - i) The level of resources to which the applicant is currently committed;
 - ii) The current annual number of inspections being conducted; and
 - iii) A description of the applicant's capabilities to conduct the local enforcement program, along with a discussion of the process to be used to implement administrative citation authority.
 - B) Applicants with no delegation agreement shall initiate a discussion of negotiation for a delegation agreement with the Agency.
 - 3) The work program to be carried out under the grant. The work program shall include:
 - A) A brief narrative on the local nonhazardous solid or municipal waste management system to be subject to the enforcement program. This shall encompass information based on the Agency's Division of Land Pollution Control, Field Operations Section data on the current annual number of inspections being conducted by the Agency or the applicant;

- B) The number of currently permitted nonhazardous solid or municipal waste disposal sites to be subject to local inspection;
 - C) An inspection schedule including the number and frequency of activities for:
 - i) Permitted nonhazardous solid or municipal waste landfills and transfer stations;
 - ii) Permitted landscape waste composting facilities;
 - iii) Closed and covered nonhazardous solid or municipal waste landfills; and
 - iv) Open dump investigations, including follow-up investigations;
 - D) A description of a training program for assigned staff, developed in conjunction with Agency staff;
 - E) A description of equipment requirements needed to implement the local nonhazardous solid waste or municipal waste enforcement program;
 - F) Coordination procedures to be used between the applicant and Agency staff related to inspection protocol and response times;
 - G) Establishment of open dump investigation procedures and response times;
 - H) Methods for assessing compliance with recordkeeping and payment procedures related to the solid waste tipping fee at permitted landfills; and
 - I) A description of the total number of activities to be conducted under the grant. At least 100 activities should be conducted by each full-time inspector on an annual basis. Agency staff will provide assistance in developing the local enforcement program schedule, scope of work, and budget.
- 4) Cost justifications for the amount requested including a budget, submitted on forms prescribed and provided by the Agency, for the expenses to be incurred. With the exception of indirect costs (as defined in 35 Ill. Adm. Code 871.Appendix B), all costs must be directly identified as grant-related. To be directly identifiable and eligible for grant reimbursement, expenses must be documentable and traceable to the grant. The budget, which shall be submitted to the Agency on forms prescribed and provided by the Agency, shall include at a minimum:
- A) Demonstration through an ordinance or resolution of the source of funds for the local share.
 - B) Direct labor costs, which shall be itemized as follows:
 - i) Direct personnel;
 - ii) In-kind contributions; and

- iii) Fringe benefits.
- C) Indirect costs, as defined and described in 35 Ill. Adm. Code 871. Appendix B.
- D) Other direct costs, which shall include:
 - i) Travel;
 - ii) Equipment;
 - iii) Supplies;
 - iv) Postage;
 - v) Advertising;
 - vi) Computer charges;
 - vii) Telecommunications;
 - viii) Office lease and utility costs;
 - ix) Vehicle charges;
 - x) Printing; and
 - xi) Training and conference registration.
- E) Subagreements.
- F) Total estimated cost.
- G) Source of funds by budget category.
- H) Allocation of funds by State fiscal year.
- I) Local contributions.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.304 Agency Action on Application

Within 90 days after receipt, the Agency will review each application and may approve each complete, acceptable application that meets all criteria and requirements pursuant to Section 870.303 of this Part, or disapprove each application that does not meet all criteria and requirements pursuant to Section 870.303 of this Part. When funds are available, the Agency will award assistance to an approved application. For a continuation award made after the beginning of the approved budget period, the Agency will reimburse the applicant for allowable costs incurred from the beginning of the budget period, provided that such costs are contained in the approved application and that the application was submitted before the expiration of the prior budget period applications.

- a) Approval. Within 90 days after receipt of a complete, acceptable application that meets all criteria and requirements of Section 870.303 of this Part, the Agency shall submit written approval of the application to the applicant. If the Agency needs an extension of time beyond 90 days, it will notify the applicant of such extension in writing. The application shall not be deemed automatically approved if the Agency fails to notify the applicant of approval or disapproval within 90 days after receipt. The Agency will approve the application only if it satisfies the terms, conditions, and limitations of Section 870.303 and relevant statutes and program regulations; and if achievement of the proposed outputs is

feasible, considering the applicant's existing problems, past performance under previous grants, program authority, organization, availability of local share resources, and proposed methodologies for accomplishing outputs.

- b) Disapproval. For applications that are not approved, the Agency's review shall include written comments necessary to revise the application to develop a complete, acceptable application that meets all criteria and requirements pursuant to Section 870.303 of this Part. If the application cannot be approved, the Agency will negotiate with the applicant to change the output commitments, to reduce the assistance amount, or to make any other changes necessary for approval. If negotiation fails, the Agency will disapprove the application in writing.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.305 Grant Award and Acceptance

- a) When the Agency has approved an application, the Agency shall notify the applicant in writing. The grant award notification shall include the following:
 - 1) All conditions of the grant, including:
 - A) Criteria and procedures for determining allowable costs;
 - B) The proportion of allowable costs for which the State will pay under the grant (the " State share");
 - C) The grant payment schedule;
 - D) Requirements applicable to access, auditing, reporting and records; and
 - E) Requirements applicable to subagreements and employees of the grantee.
 - 2) Grounds and procedures for action by the Agency in the event of noncompliance with these rules or any grant conditions.
- b) Within 30 days of receipt of the grant award notification under this Section, the grantee shall notify the Agency in writing of its acceptance by submitting the grant agreement, with appropriate signatures, to the Agency. Failure to submit the notice of acceptance required by the grant may result in:
 - 1) Withholding of the grant award;
 - 2) Termination of the grant award; or
 - 3) Such other action as the Agency may be authorized to take.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.306 Evaluation of Performance

The Agency will oversee each recipient's performance under an enforcement grant. The Agency will evaluate grantee performance and progress toward completing the outputs in the approved work program according to the schedule. If the evaluation reveals that the grantee is not achieving one or more of the conditions of the assistance agreement, the Agency will attempt to resolve the situation through negotiation. If agreement is not reached, the Agency may impose any of the sanctions in Section 870.309 of this Part.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.307 Supplemental SWE Grants (Repealed)

(Source: Repealed at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.308 Grant Payment Schedule

- a) Request for partial or final payment shall be sent to the Agency and shall demonstrate the performance of work in accordance with the terms of the grant agreement. Requests shall be made according to the grant payment schedule. In addition, grantees shall submit grantee progress reports, on forms prescribed and provided by the Agency, in accordance with the grant agreement.
- b) With the exception of indirect costs (as defined in 35 Ill. Adm. Code 871.Appendix B), all grant costs must be directly identified as grant related. To be directly identifiable and eligible for grant reimbursement, expenses must be documentable and traceable to the grant. Accurate documentation, on forms prescribed and provided by the Agency, must be provided by the grantee in accordance with the schedule for payment in the grant agreement for all grant expenses. If accurate documentation for all grant expenses cannot be provided by the grantee, reimbursement shall not be made.
- c) The grantee shall be paid the State share of allowable costs incurred within the scope of an approved project not to exceed the total grant, subject to the limitations of the conditions of the grant. Such payments must be in accordance with the payment schedule and the grant amount set forth in the grant agreement.
 - 1) Request for Payment The grantee shall submit requests for payment and progress reports to the Agency for allowable costs incurred in accordance with the payment schedule set forth in the grant agreement. The grantee shall include an accounting of all eligible grant expenses to the Agency with the requests for payment. Subject to the availability of appropriated funding, the Agency shall cause payment to be disbursed to the grantee upon receipt of accurate documentation with the request for payment. Such funds shall be disbursed so that the total amount of State

payments made to the grantee for the project is equal to the State share of the actual or estimated allowable project costs incurred to date, as certified by the grantee in its most recent request for payment.

- 2) Adjustment At any time or times prior to final payment under the grant, the Agency may cause any request(s) for payment to be reviewed or audited by the Agency. Each subsequent payment shall be subject to reduction for amounts included in the related request for payment which are found, on the basis of such review or audit, not to constitute allowable costs. Any payment will be reduced for overpayments or increased for underpayments on preceding requests for payment.
- 3) Refunds, rebates, credits, etc. The State share of any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the grantee with respect to the project, to the extent that they are properly allocable costs for which the grantee has been paid under a grant, must be paid to the State of Illinois Solid Waste Management Fund. Reasonable expenses incurred by the grantee for the purposes of securing such funds, rebates, credits, or other amounts shall be allowable costs under the grant.
- 4) Schedule of payment Payments for eligible grant expenses will be paid by the Agency in accordance with the payment schedule set forth in the grant agreement subject to appropriation of funds by the Illinois General Assembly. Failure to submit requests for payment and progress reports in accordance with the schedule in the grant agreement may subject the grantee to the noncompliance provisions in Section 870.309 of this Part.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.309 Noncompliance with Grant Conditions

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a SMWE grant:
 - 1) The grant may be annulled and all grant funds recovered;
 - 2) The grant may be terminated;
 - 3) The project work may be suspended;
 - 4) An injunction may be entered by an appropriate court; or
 - 5) Such other action as the Agency may be authorized to take.
- b) No action shall be taken under this Section without prior consultation with the applicant.
- c) Recovery actions taken under this Section shall be pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705].

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)

Section 870.310 Indemnity

The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of the Construction Contract Indemnification for Negligence Act [740 ILCS 35]. The grantee shall require that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of such contract or satisfaction of any and all claims arising thereunder.

(Source: Amended at 19 Ill. Reg. 11861, effective August 3, 1995)