

## Environmental Protection Agency

## § 35.1640-1

(2) Where a proposed project has not been studied under a Phase 1 cooperative agreement, the applicant for Phase 2 assistance shall provide an opportunity for public consultation with adequate and timely notices before submitting an application to EPA. The public shall be given the opportunity to discuss the proposed project, the alternatives, and any potentially adverse environmental impacts. A public hearing shall be held where the proposed project involves major construction, dredging or other significant modification of the environment. The applicant shall provide a summary of his responses to all public comments and submit the summary, along with copies of any written comments, with the application.

### § 35.1620-5 State work programs and lake priority lists.

(a)(1) A State shall submit to the Regional Administrator as part of its annual work program (§35.1513 of this subchapter) a description of the activities it will conduct during the Federal fiscal year to classify its lakes according to trophic condition (§35.1630) and to set priorities for implementing clean lakes projects within the State. The work plan must list in priority order the cooperative agreement applications that will be submitted by the State for Phase 1 and Phase 2 projects during the upcoming fiscal year, along with the rationale used to establish project priorities. Each State must also list the cooperative agreement applications, with necessary funding, which it expects to submit in the following fiscal year. This information will assist EPA in targeting resources under §35.1613.

(2) A State may petition the Regional Administrator by letter to modify the EPA approved priority list established under paragraph (a)(1) of this section. This may be done at any time if the State believes there is sufficient justification to alter the priority list contained in its annual work program, e.g., if a community with a lower priority project has sufficient resources available to provide the required matching funding while a higher priority project does not, or if new data indicates that a lower priority lake

will have greater public benefit than a higher priority lake.

(b) Clean lakes restoration priorities should be consistent with the State-wide water quality management strategy (see §35.1511-2 of this subchapter). In establishing priorities on particular lake restoration projects, States should use as criteria the application review criteria (§35.1640-1) that EPA will use in preparing funding recommendations for specific projects. If a State chooses to use different criteria, the State should indicate this to the Regional Administrator as part of the annual work program.

### § 35.1620-6 Intergovernmental review.

EPA will not award funds under this subpart without review and consultation in accordance with the requirements of Executive Order 12372, as implemented in 40 CFR part 29 of this chapter.

[48 FR 29302, June 24, 1983]

### § 35.1630 State lake classification surveys.

States that wish to participate in the clean lakes program shall establish and submit to EPA by January 1, 1982, a classification, according to trophic condition, of their publicly owned freshwater lakes that are in need of restoration or protection. After December 31, 1981, States that have not complied with this requirement will not be eligible for Federal financial assistance under this subpart until they complete their survey.

### § 35.1640 Application review and evaluation.

EPA will review applications as they are received. EPA may request outside review by appropriate experts to assist with technical evaluation. Funding decisions will be based on the merit of each application in accordance with the application review criteria under §35.1640-1. EPA will consider Phase 1 applications separately from Phase 2 applications.

### § 35.1640-1 Application review criteria.

(a) When evaluating applications, EPA will consider information supplied by the applicant which address the following criteria:

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(1) The technical feasibility of the project, and where appropriate, the estimated improvement in lake water quality.

(2) The anticipated positive changes that the project would produce in the overall lake ecosystem, including the watershed, such as the net reduction in sediment, nutrient, and other pollutant loadings.

(3) The estimated improvement in fish and wildlife habitat and associated beneficial effects on specific fish populations of sport and commercial species.

(4) The extent of anticipated benefits to the public. EPA will consider such factors as

(i) The degree, nature and sufficiency of public access to the lake;

(ii) The size and economic structure of the population residing near the lake which would use the improved lake for recreational and other purposes;

(iii) The amount and kind of public transportation available for transport of the public to and from the public access points;

(iv) Whether other relatively clean publicly owned freshwater lakes within 80 kilometer radius already adequately serve the population; and

(v) Whether the restoration would benefit primarily the owners of private land adjacent to the lake.

(5) The degree to which the project considers the "open space" policies contained in sections 201(f), 201(g), and 208(b)(2)(A) of the Act.

(6) The reasonableness of the proposed costs relative to the proposed work, the likelihood that the project will succeed, and the potential public benefits.

(7) The means for controlling adverse environmental impacts which would result from the proposed restoration of the lake. EPA will give specific attention to the environmental concerns listed in section (c) of appendix A.

(8) The State priority ranking for a particular project.

(9) The State's operation and maintenance program to ensure that the pollution control measures and/or in-lake restorative techniques supported under the project will be continued after the project is completed.

(b) For Phase 1 applications, the review criteria presented in paragraph (a) of this section will be modified in relation to the smaller amount of technical information and analysis that is available in the application. Specifically, under criterion (a)(1), EPA will consider a technical assessment of the proposed project approach to meet the requirements stated in appendix A to this regulation. Under criterion (a)(4), EPA will consider the degree of public access to the lake and the public benefit. Under criterion (a)(7), EPA will consider known or anticipated adverse environmental impacts identified in the application or that EPA can presume will occur. Criterion (a)(9) will not be considered.

**§ 35.1650 Award.**

(a) Under 40 CFR 30.345, generally 90 days after EPA has received a complete application, the application will either be: (1) Approved for funding in an amount determined to be appropriate for the project; (2) returned to the applicant due to lack of funding; or (3) disapproved. The applicant shall be promptly notified in writing by the EPA Regional Administrator of any funding decisions.

(b) Applications that are disapproved can be submitted as new applications to EPA if the State resolves the issues identified during EPA review.

**§ 35.1650-1 Project period.**

(a) The project period for Phase 1 projects shall not exceed three years.

(b) The project period for Phase 2 projects shall not exceed four years. Implementation of complex projects and projects incorporating major construction may have longer project periods if approved by the Regional Administrator.

**§ 35.1650-2 Limitations on awards.**

(a) Before awarding assistance, the Regional Administrator shall determine that:

(1) The applicant has met all of the applicable requirements of § 35.1620 and § 35.1630; and

(2) State programs under section 314 of the Act are part of a State/EPA Agreement which shall be completed before the project is awarded.