

Environmental Protection Agency

§ 35.300

then each interstate agency will receive a base allotment equal to 50 percent of the total interstate set-aside divided by the total number of eligible interstate agencies.

(2) *Variable allotment.* The variable allotment provides for funds to be distributed to interstate agencies on the basis of "the extent of the pollution problems in the respective States." Funds not allotted under the base allotment will be allotted to eligible interstate agencies based on each interstate agency's share of their member States' Section 106 formula allotment ratios. Updates of the data for the six components of the Section 106 State allocation formula will automatically result in corresponding updates to the variable allotment portion of the interstate allotments. The allotment ratios for those States involved in compacts with more than one interstate agency will be allocated amongst such interstate agencies based on the percentage of each State's territory that is situated within the drainage basin or watershed area covered by each compact.

[64 FR 23737, May 3, 1999]

§ 35.255 Maintenance of effort.

(a) To receive funds under section 106, any State or interstate agency must expend annually for recurrent section 106 program expenditures an amount of non-Federal funds at least equal to expenditures during the fiscal year ending June 30, 1971.

(b) The maintenance of effort requirement in paragraph (a) of this section shall not apply to eligible Indian Tribes.

[54 FR 14358, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

§ 35.260 Limitations.

(a) The Regional Administrator will not award section 106 funds to any State which does not monitor and compile, analyze, and report water quality data as described in section 106(e)(1) of the Clean Water Act. The Regional Administrator may award section 106 funds to eligible Indian Tribes even if they do not meet this requirement. However, all monitoring and analysis activities performed by a Tribe must

meet the applicable quality assurance, quality control requirements as specified in 40 CFR part 31.

(b) The Regional Administrator will not award section 106 funds to any State, including any eligible Indian Tribe, which does not have authority comparable to that in section 504 of the Clean Water Act and adequate contingency plans to implement such authority.

(c) The Regional Administrator will not award section 106 funds if federally assumed enforcement as defined in section 309(a)(2) of the Clean Water Act is in effect with respect to the agency.

(d) The Regional Administrator will not award section 106 funds unless the work program submitted with the assistance application shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under section 205 (g) and (j) of the Clean Water Act.

[47 FR 44954, Oct. 12, 1982, as amended at 54 FR 14358, Apr. 11, 1989; 59 FR 13817, Mar. 23, 1994]

§ 35.265 Awards to Indian Tribes.

(a) The Regional Administrator will not award section 106 funds to an Indian Tribe unless EPA has determined that the Indian Tribe meets the requirements set forth at 40 CFR 130.6(d) as well as the applicable limitations in 40 CFR 35.260.

(b) The Regional Administrator will not give a continuation award to any Indian Tribe unless the Tribe shows satisfactory progress in meeting its negotiated milestones and goals.

[54 FR 14358, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

STATE ADMINISTRATION (SECTION 205(G))

§ 35.300 Purpose.

Section 205(g) of the Clean Water Act authorizes assistance to States (as defined in section 502 of the Act) for two purposes.

(a) *Construction management assistance.* The 205(g) funds may be used for administering elements of the construction grant program under sections 201, 203, 204, and 212 of the Clean Water Act and for managing waste treatment