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# Part II

# Environmental Protection Agency

## 40 CFR Part 35

## Revised Allotment Formulas for State and Interstate Monies Appropriated Under Section 106 of the Clean Water Act; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 35**

**[FRL–6332–1]**

## Revised Allotment Formulas for State and Interstate Monies Appropriated Under Section 106 of the Clean Water Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This regulation revises the formulas for allotting funds appropriated under Section 106 of the Clean Water Act (CWA) to States and to interstate agencies for administering water quality programs. Section 106 of the CWA authorizes the Environmental Protection Agency (EPA) to provide grants to States and interstate agencies, and Indian Tribes qualified under CWA Section 518(e), to assist them in administering programs for the prevention, reduction, and elimination of pollution.

The allotment formula for the tribal portion of the Section 106 Grant Program was revised in 1997 and is not affected by this action.

The CWA directs EPA to allocate Section 106 funds ''on the basis of the extent of the pollution problem in the respective States.'' The Section 106 allotment formulas were previously based on data more than 25 years old, including population data from the 1960s and data on pollution sources from the early 1970s. Reports of current water quality conditions around the country, provided by States under CWA Section 305(b), indicate that the location and nature of the sources of water pollution have changed significantly since the early 1970s. Utilizing the more recent data, EPA revised the CWA Section 106 State and interstate allotment formulas to better comply with the statutory directive to allocate funds to States and interstate agencies based on the ''extent of the pollution problem.'' Notice of revised State and interstate agency allotment formulas for Fiscal Year (FY) 1999 was published in the **Federal Register** (63 FR 59870 (1998)).

Based on public comments received on the FY 1999 formulas, EPA has revised the CWA Section 106 State allotment formula to incorporate a perpetual ''hold harmless'' provision, which ensures that all States will receive an allotment at least equal to their FY 2000 allotment level for FY 2001 and beyond unless the appropriation for States under the Section 106 Grant Program decreases from its FY 2000 level.

These revised Section 106 State and interstate allotment formulas will be effective for Fiscal Year 2000 and beyond.

**DATES:** This rule is effective May 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol Crow, Office of Wastewater Management (4201), 401 M Street, S.W., Washington, D.C. 20460; Telephone: (202) 260–6742; Facsimile: (202) 260–1156; E-mail: crow.carol@epa.gov

**SUPPLEMENTARY INFORMATION:**

### Regulated Entities

States, the District of Columbia, Puerto Rico, the Insular Areas, and interstate agencies eligible to receive grants under Section 106 of the Clean Water Act are regulated by this rule.

### Background

Section 106(a) provides general authority for grants to States, interstate agencies, and Indian Tribes qualified under CWA Section 518(e), to assist them in administering programs for the prevention, reduction, and elimination of water pollution. Section 106(b) of the CWA requires the Administrator of the Environmental Protection Agency (EPA) to make allotments from sums appropriated by Congress in each fiscal year ''on the basis of the extent of the pollution problem in the respective States.''

The Section 106 allotment formulas were previously based on data that is now more than 25 years old, including population data from the 1960s and inventory data for large cattle feedlots, industrial and municipal point sources, and power plants dating from the early 1970s. Reports of current water quality conditions around the country, provided by States to EPA under CWA Section 305(b), indicate that the location and nature of the sources of water pollution have changed significantly since the early 1970s.

For the FY 1999 formula revision process, EPA organized a work group consisting of geographically-balanced representation from the Agency, seven States, and an interstate agency to review the former formula and to consider other approaches. The State representatives were recommended by the Environmental Council of States (ECOS), the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and the Ground Water Protection Council (GWPC). The representatives selected by these organizations were encouraged to share information and gather opinions from other States in their region and in their associations. The work group evaluated a wide range of alternative approaches and ultimately developed and recommended revised State and interstate allocation formulas for use in determining Section 106 State and interstate allotments for FY 1999.

Utilizing the more recent data, EPA revised the allotment formulas for FY 1999 to ensure the allotment of funds to States and interstate agencies based on the ''extent of the pollution problem in the respective States.'' Notice of revised allotment formulas for States and interstate agencies for Fiscal Year (FY) 1999 was published in the November 5, 1998, **Federal Register** (63 FR 59870).

Based on a significant increase in the appropriation for the Section 106 Grant Program in FY 1999, the revised formula specifically provided that no State's FY 1999 allotment would be less than its FY 1998 allotment. For FY 1999, the funding increase also provided additional resources to most States. In subsequent years, under the FY 1999 formula, States would not lose more than 5 percent of their Section 106 allotment in any one year, or more than a total of 20 percent from their FY 1998 Section 106 allotment.

The funding set-aside for interstate agencies was returned to its historical (FY 1976) high level of 2.6 percent of the total State monies appropriated for States under the Section 106 Grant Program.

EPA published the revised FY 1999 formulas in the November 5, 1998, **Federal Register** Notice and requested public comments be submitted no later than January 4, 1999. In response to public comments, EPA reconvened an expanded Section 106 Formula work group comprised of EPA and State representatives to develop final Section 106 allotment formulas for FY 2000 and beyond. To ensure that States from each EPA Region were provided with an opportunity to participate directly in the development of the final revised allotment formulas, the membership of the original Section 106 Formula work group was expanded to include four additional State representatives. Work group representatives were encouraged to share information and gather opinions from other States in their regions and in their associations.

In response to specific concerns raised in the comments, EPA recommended incorporation of a perpetual ''hold harmless'' provision in the final Section 106 State allotment formula. After extensive discussion, the work group members unanimously agreed to implement a perpetual ''hold harmless'' provision in the final State

formula. This provision will (1) ensure that all States will be eligible to receive an allotment at least equal to their FY 2000 allotment for FY 2001 and beyond, provided that the appropriation for States under the Section 106 Grant Program does not decline from its FY 2000 level; and (2) all States will be eligible to receive a portion of any increase in the appropriation for States under the Section 106 Grant Program. For FY 2000, each of the 21 entities [1] that did not receive an increase in its allotment from FY 1998 to FY 1999 (i.e., the entity received the same allotment in FY 1999 that it received in FY 1998) will receive at least its FY 1999 allotment plus an allowance for inflation based on the Consumer Price Index (CPI). Each of the 35 entities [2] that received a funding increase from FY 1998 to FY 1999 will receive its FY 1999 allotment minus a pro rata share of the funds necessary to ensure the inflation allowance for the aforementioned 21 entities.

Once the work group members reached agreement on the implementation of the ''hold harmless'' provision, accordingly they agreed to maintain the components, data sources, and weights used in the FY 1999 formula as published in the November 5, 1998, **Federal Register** in the final Section 106 allotment formulas for FY 2000 and beyond.

**Regulatory Flexibility Act**

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., as amended by SBREFA, EPA generally is required to conduct a regulatory flexibility analysis describing the impact of the regulatory action on small entities as part of rulemaking. However, under Section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 604(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This rule imposes no new requirements on small entities, nor does it adversely impact them. It updates existing funding allotment formulas for States and interstate agencies to ensure that the allotments of CWA Section 106 funds to States and interstate agencies are based on the ''extent of the pollution problem in the respective States.'' Based on the incorporation of a perpetual ''hold harmless'' provision in the State allotment formula, all States will receive an allotment at least equal to their FY 2000 allotment level for FY 2001 and beyond, unless the appropriation for States under the Section 106 Grant Program decreases from its FY 2000 level. The set-aside funding for interstate agencies was restored to its historical high of 2.6 percent of the total funds appropriated for States under the Section 106 Grant Program.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The UMRA excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from conditions of federal assistance. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule contains no regulatory provisions that might significantly or uniquely affect small governments, as those are defined at 2 U.S.C. 658(11) (i.e. governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000). The Section 106 allotment formula for the tribal portion of the Section 106 Grant Program is not affected by this rule. Thus, today's rule is not subject to the requirements of Section 203 of UMRA.

**National Technology Transfer and Advancement Act**

Under Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), EPA is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used, the Act requires EPA to provide Congress, through the Office of Management and Budget (OMB), an explanation of the reasons for not using such standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. 3501 *et seq.* information collection requirements contained in rules must be approved by OMB before they are effective. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a current valid OMB control number. This rule does not contain any collection of information requirements. Since this action imposes no information collection, reporting or record-keeping requirements, this rule is not subject to the PRA.

**Executive Order 12866**

Under Executive Order 12866, [58 FR 51735 (October 4, 1993)] ''Regulatory Planning and Review,'' the Agency must determine whether the regulatory action is ''significant'' and is therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

[1] 17 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands

[2] 33 States, American Samoa, and the Northern Mariana Islands

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject ot OMB review.''

**Executive Order 13045**

Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that is: (1) determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under Section 5–501 of the Order has the potential to influence the regulation. EPA has determined that the proposed rule is not a covered regulatory action because it is not economically significant as defined under Executive Order 12866, and it does not establish an environmental standard to mitigate health or safety risks. As a result, this rule is not subject to the requirements of the Executive Order 13045.

**Executive Order 12875**

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The rule merely establishes formulas for the allotment of Federal funds to States and interstate agencies. Accordingly, the requirements of Section 1(a) of Executive Order 12875 do not apply to this rule.

**Executive Order 13084**

Under Executive Order 13084, Consultation and Coordination with Indian tribal governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule does not affect the communities of Indian tribal governments, because Tribes are covered under 40 CFR Part 35, 35.265, which remains in effect as published. Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

**Congressional Review Act**

The Congressional Review Act, 5 U.S.C. Section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. Section 804(2). This rule will be effective May 3, 1999.

**List of Subjects in 40 CFR Part 35**

Environmental protection, Administrative practices and procedures, Evaluation of performance, Grant programs—environmental protection, Work plan requirements.

Dated: April 20, 1999.

**Carol M. Browner,**

*Administrator.*

EPA amends 40 CFR part 35 as follows:

## PART 35—STATE AND LOCAL ASSISTANCE

1. The authority citation for part 35, subpart A continues to read as follows:

**Authority:** Secs. 105 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7405 and 7601(a)); Secs. 106, 205(g), 205(j), 208, 319, 501(a) and 518 of the Clean Water Act, as amended (33 U.S.C. 1256, 1285(g), 1285(j), 1288, 1361(a) and 1377); secs. 1443, 1450, and 1451 of the Safe Drinking Water Act (42 U.S.C. 300j–2, 300j–9 and 300j–11); secs. 202(a) and 3011 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6912(a), 6931, 6947, and 6949); and secs. 4, 23, and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136(b), 136(u) and 136w(a)).

2. Subpart A is amended by adding § 35.251 and § 35.252 to read as follows:

### § 35.251 Definitions.

As used herein, the following words and terms shall have the meaning set forth below:

(a) The term *allotment* means the sum reserved for each State or interstate agency from funds appropriated by the Congress. The allotment is determined by formula based on the extent of the water pollution problem in the respective States. It represents the maximum amount of money potentially available to the State or interstate agency for its program grant.

(b) The term *program grant* means the amount of federal assistance awarded to a State or interstate agency under Section 106 of the Clean Water Act to assist in administering programs for the prevention, reduction and elimination of water pollution.

(c) The term *State* means a State, the District of Columbia (DC), the Commonwealth of Puerto Rico (PR), the U.S. Virgin Islands (VI), Guam (GU), American Samoa (AS), and the Commonwealth of the Northern Mariana Islands (CNMI).

(d) The term *interstate agency* means an agency that meets the requirements of Section 502(2) of the Clean Water Act (CWA) and which is determined to be eligible for receipt of a grant under CWA Section 106 and these regulations by the Administrator.

(e) The term *component* refers to one of the six factors selected for use in the Section 106 State allotment formula. Each component of the formula was selected based on its potential contribution to the extent of water pollution problems within the respective States and to the workload of State water pollution control programs.

(f) The term *element* refers to one of the constituent factors used to provide greater specificity to a component in the Section 106 State allotment formula. Certain components are composed of two or more ''elements.'' For example, the nonpoint source component of the Section 106 State allotment formula is composed of an agricultural element, a logging element, and an abandoned mine element.

(g) The term *sub-element* refers to one of the constituent factors used to provide greater specificity to an element in the Section 106 State allotment formula. Certain elements are composed of two or more ''sub-elements.'' For example, the abandoned mine element of the nonpoint source component is composed of a soft-rock mining sub-element and a hard-rock mining sub-element.

(h) The term *funding floor* refers to the minimum amount of funding that a State will be allotted in any fiscal year.

(i) The term *maximum level of funding* refers to the ceiling on the amount of funding that a State can be allotted in any fiscal year.

**§ 35.252 State and interstate allotments.**

(a) *Allotments.* Each fiscal year funds appropriated for States under Section 106 will be allotted to States and interstate agencies on the basis of the extent of the pollution problems in the respective States. A portion of the funds available to States under the Section 106 Grant Program will be set-aside for allotment to eligible interstate agencies. For FY 2000 and subsequent years, the interstate set-aside will be set at the level of 2.6 percent of the total funds appropriated for States under the Section 106 Grant Program.

(b) *State allotment formula.* The Section 106 State allotment formula establishes an allotment ratio for each State based on six components selected to reflect the extent of the water pollution problem in the respective States. A funding floor is established for each State with provisions for periodic adjustments for inflation. The formula also provides for a maximum funding level that a State can receive in any fiscal year (150% of its previous fiscal year allotment).

(1) *Components and component weights.* (i) *Components.* The six components used in the Section 106 State allotment formula are: Surface Water Area; Ground Water Use; Water Quality Impairment; Point Sources; Nonpoint Sources; and Population of Urbanized Area. The components for the formula are presented in Table 1 of this section, with their associated elements, sub-elements, and supporting data sources.

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## Table 1: Components of the Section 106 State Allotment Formula

| Formula Component | Element | Sub-Element | Data Source |
|---|---|---|---|
| **1. Surface Water Area** | | | U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States.* |
| **2. Ground Water Use** | **a. Non-agricultural withdrawals** | | U.S. Department of the Interior, U.S. Geological Survey, *Estimates of Water Use in the United States.* |
| | **b. Population served by CWSs that use GW for the majority of their source water** | | U.S. Environmental Protection Agency, Office of Water, *Safe Drinking Water Information System.* |
| **3. Water Quality Impairment** | **a. Impaired rivers and streams** (miles) | | U.S. Environmental Protection Agency, Office of Water, *National Water Quality Inventory* [based on State-submitted §305(b) reports]. |
| | **b. Impaired lakes, ponds, and reservoirs** (acres) | | |
| | **c. Impaired estuaries** (square miles) | | |
| | **d. Impaired wetlands** (acres) | | |
| | **e. Impaired ocean waters** (shoreline miles) | | |
| | **f. Impaired Great Lake waters** (shoreline miles) | | |
| **4. Point Sources** | **a. Agriculture** (total animal units) | | U.S. Department of Commerce, Bureau of the Census, *Census of Agriculture.* |
| | **b. Industrial** | **i. Manufacturers** | U.S. Department of Commerce, Bureau of the Census, *Census of Manufactures.* |
| | | **ii. Mining operations** | U.S. Department of Commerce, Bureau of the Census, *Census of Mineral Industries.* |
| | | **iii. Power plants** | U.S. Department of Energy, Office of Coal, Nuclear, Electric, and Alternate Fuels, *Inventory of Power Plants in the U.S.* |
| | **c. Municipal dischargers** | | U.S. Environmental Protection Agency, Office of Water, *Wastewater Facilities Database.* |
| **5. Nonpoint Sources** | **a. Agriculture** | | U.S. Department of Commerce, Bureau of the Census, *Census of Agriculture.* |
| | **b. Logging** | | U.S. Department of Commerce, Bureau of the Census, Economic Census, *Census of Manufactures.* |
| | **c. Abandoned mines** | **i. Abandoned soft-rock (coal) mining operations** | U.S. Department of the Interior, Office of Surface Mining, *Abandoned Mine Land Inventory System.* |
| | | **ii. Abandoned hard-rock mining operations** | U.S. Department of the Interior, Bureau of Mines, *Minerals Availability System/ Mineral Industry Location System.* |
| **6. Population of Urbanized Areas** | | | U.S. Department of Commerce, Bureau of the Census, *Census of Population and Housing.*[1] |

1 The population living in urban areas (*Census* designated places with 2,500 or more residents) rather than population living in urbanized areas (one or more *Census* designated places and the associated urban fringe that together have 50,000 or more residents) will be used for PR and the Insular Areas (VI, AS, GU, and CNMI).

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(ii) *Component weights.* To account for the fact that not all of the selected formula components contribute equally to the extent of the pollution problem within the States, each formula component is weighted individually. Final component weights will be phased-in by FY 2004, according to the schedule presented in Table 2 of this section:

TABLE 2.—COMPONENT WEIGHTS IN THE SECTION 106 STATE ALLOTMENT FORMULA

| Component | FY 2000 (percent) | FY 2001 (percent) | FY 2004+ (percent) |
|---|---|---|---|
| Surface Water Area | 13 | 13 | 12 |
| Ground Water Use | 11 | 12 | 12 |
| Water Quality Impairment | 13 | 25 | 35 |
| Point Sources | 25 | 17 | 13 |
| Nonpoint Sources | 18 | 15 | 13 |
| Population of Urbanized Area | 20 | 18 | 15 |
| Total | 100 | 100 | 100 |

(2) *Funding floor.* A funding floor is established for each State. Each State's funding floor will be at least equal to its FY 2000 allotment in all future years unless the appropriation for States under the Section 106 Grant Program decreases from its FY 2000 level.

(3) *Funding decrease.* If the appropriation for the State Section 106 Grant Program decreases in future years, the funding floor will be disregarded and all States allotments will be reduced by an equal percentage.

(4) *Inflation adjustment.* Funding floors for each State will be adjusted for inflation when the appropriation for the State Section 106 Grant Program increases from the preceding fiscal year. These adjustments will be made on the basis of the cumulative change in the Consumer Price Index (CPI), published by the U.S. Department of Labor, since the most recent year in which State Section 106 funding last increased. Inflation adjustments to State funding floors will be capped at the lesser of the percentage change in appropriated funds or the cumulative percentage change in the inflation rate.

(5) *Cap on annual funding increases.* The maximum allotment to any State will be 150 percent of that State's allotment for the previous fiscal year.

(6) *Cap on component ratio.* A component ratio is equal to each State's share of the national total of a single component. The cap on each of the six State formula components ratios is 10 percent. If a State's calculated component ratio for a particular component exceeds the 10 percent cap, the State will instead be assigned 10 percent for that component. The component ratios for all other States will be adjusted accordingly.

(7) *Update cycle.* The data used in the State formula will be periodically updated. The first update will impact allotments for FY 2001, and will consist of updating the data used to support the Water Quality Impairment component of the State formula. These data will be updated using the most currently available CWA Section 305(b) reports. After this initial update, the data used to support all six components of the Section 106 State allotment formula will be updated in FY 2003 (for use in the determination of FY 2004 allotments). Thereafter, all data will be updated every five years (i.e., in FY 2008 for FY 2009 allotments, in FY 2013 for FY 2014 allotments, etc.) Note there will be an annual adjustment to the funding floor for all States, based on the appropriation for the Section 106 Grant Program and changes in the CPI.

(c) *Interstate allotment formula.* EPA will set-aside 2.6 percent of funds appropriated for States under the Section 106 Grant Program for interstate agencies. The Section 106 interstate allotment formula consists of two parts: a base allotment; and a variable allotment.

(1) *Base allotment.* Each eligible interstate agency is provided with $125,000 as a base allotment to help fund coordination activities amongst its member States. However, no more than 50 percent of the total available interstate set-aside may be allocated as part of the base allotment. If, given the 50 percent limitation placed on the base allotment the amount of interstate set-aside funds is insufficient to provide each interstate agency with $125,000, 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.

[FR Doc. 99–10631 Filed 4–30–99; 8:45 am]

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