

§ 35.165

40 CFR Ch. I (7-1-03 Edition)

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' Water Pollution Control grant formula allotment ratios. Updates of the data for the six components of the Water Pollution Control State grant 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 among 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.

§ 35.165 Maintenance of effort.

To receive a Water Pollution Control grant, a 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.

§ 35.168 Award limitations.

(a) The Regional Administrator may award section 106 funds to a State only if:

(1) The State monitors and compiles, analyzes, and reports water quality data as described in section 106(e)(1) of the Clean Water Act;

(2) The State has authority comparable to that in section 504 of the Clean Water Act and adequate contingency plans to implement such authority;

(3) There is no federally-assumed enforcement as defined in section 309(a)(2) of the Clean Water Act in effect with respect to the State agency;

(4) The State's work plan shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under sections 205(g) and (j) of the Clean Water Act; and

(5) The State filed with the Administrator within 120 days after October 18, 1972, a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works.

(b) The Regional Administrator may award section 106 funds to an interstate agency only if:

(1) The interstate agency filed with the Administrator within 120 days after October 18, 1972, a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works.

(2) There is no federally-assumed enforcement as defined in section 309(a)(2) of the Clean Water Act in effect with respect to the interstate agency.

**PUBLIC WATER SYSTEM SUPERVISION
(SECTION 1443(A))**

§ 35.170 Purpose.

(a) *Purpose of section.* Sections 35.170 through 35.178 govern Public Water System Supervision Grants to States (as defined in section 1401 (13)(A) of the Safe Drinking Water Act) authorized under section 1443(a) of the Act.

(b) *Purpose of program.* Public Water System Supervision Grants are awarded to carry out public water system supervision programs including implementation and enforcement of the requirements of the Act that apply to public water systems.

(c) *Associated program regulations.* Associated program regulations are found in 40 CFR parts 141, 142, and 143.

§ 35.172 Allotment.

(a) *Basis for allotment.* The Administrator allots funds for grants to support States' Public Water System Supervision programs based on each State's population, geographic area, numbers of community and non-community water systems, and other relevant factors.

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(b) *Allotment limitation.* No State, except American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, shall be allotted less than \$334,500 (which is one percent of the FY 1989 appropriation).

§ 35.175 Maximum federal share.

The Regional Administrator may provide a maximum of 75 percent of the State's approved work plant costs.

§ 35.178 Award limitations.

(a) *Initial grants.* The Regional Administrator will not make an initial award unless the applicant has an approved Public Water System Supervision program or agrees to establish an approvable program within one year of the initial award.

(b) *Subsequent grants.* The Regional Administrator will not award a grant to a State after the initial award unless the applicant has assumed and maintained primary enforcement responsibility for the State's Public Water System Supervision program.

UNDERGROUND WATER SOURCE PROTECTION (SECTION 1443(B))

§ 35.190 Purpose.

(a) *Purpose of section.* Sections 35.190 through 35.198 govern Underground Water Source Protection Grants to States (as defined in section 1401(13)(A) of the Safe Drinking Water Act) authorized under section 1443(b) of the Act.

(b) *Purpose of program.* The Underground Water Source Protection Grants are awarded to carry out underground water source protection programs.

(c) *Associated program regulations.* Associated program regulations are found in 40 CFR 124, 144, 145, 146, and 147.

§ 35.192 Basis for allotment.

The Administrator allots funds for grants to support State's underground water source protection programs based on such factors as population, geographic area, extent of underground injection practices, and other relevant factors.

§ 35.195 Maximum federal share.

The Regional Administrator may provide a maximum of 75 percent of a State's approved work plant costs.

§ 35.198 Award limitation.

The Regional Administrator will only award section 1443(b) funds to States that have primary enforcement responsibility for the underground water source protection program.

HAZARDOUS WASTE MANAGEMENT (SECTION 3011(A))

§ 35.210 Purpose.

(a) *Purpose of section.* Sections 35.210 through 35.218 govern Hazardous Waste Management Grants to States (as defined in section 1004 of the Solid Waste Disposal Act) under section 3011(a) of the Act.

(b) *Purpose of program.* Hazardous Waste Management Grants are awarded to assist States in the development and implementation of authorized State hazardous waste management programs.

(c) *Associated program regulations.* Associated program regulations are at 40 CFR part 124, subparts B, E, and F; 40 CFR parts 260 through 266; 40 CFR parts 268 through 273; and 40 CFR part 279.

§ 35.212 Basis for allotment.

The Administrator allots funds for Hazardous Waste Management Grants in accordance with section 3011(b) of the Solid Waste Disposal Act based on factors including:

(a) The extent to which hazardous waste is generated, transported, treated, stored, and disposed of in the State;

(b) The extent to which human beings and the environment in the State are exposed to such waste, and;

(c) Other factors the Administrator deems appropriate.

§ 35.215 Maximum federal share.

The Regional Administrator may provide up to 75 percent of the approved work plant costs.

§ 35.218 Award limitation.

The Regional Administrator will not award Hazardous Waste Management