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of either paragraph 6e(1) or 6e(2), as a minimum, in order to be innovative for the purposes of these guidelines.

c. These six criteria are essentially the same as those used to evaluate any project proposed for grant assistance. The principal difference is that some newly developed processes and techniques may have the potential to provide significant advancements in the state of the art with respect to one or more of these criteria. Inherent in the concept of advancement of technology is a degree of risk which is necessary to initially demonstrate a method on a full, operational scale under the circumstances of its contemplated use. This risk, while recognized to be a necessary element in the implementation of innovative technology, must be minimized by limiting the projects funded to those which have been fully developed and shown to be feasible through operation on a smaller scale. The risk must also be commensurate with the potential benefits (i.e., greater potential benefits must be possible in the case of innovative technology projects where greater risk is involved).

d. Increased Federal funding under § 35.908(b) may be made only from the reserve in § 35.915-1(b). The Regional Administrator may fund a number of projects using the same type of innovative technology if he desires to encourage certain innovative processes and techniques because the potential benefits are great in comparison to the risks, or if operation under differing conditions of climatic, geology, etc., is desirable to demonstrate the technology.

e. The Regional Administrator will use the following criteria to determine whether waste water treatment processes and techniques are innovative:

(1) The life cycle cost of the eligible portion of the treatment works excluding conventional sewer lines is at least 15 percent less than that for the most cost-effective alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., is no more than 85 percent of the life cycle cost of the most cost-effective noninnovative alternative).

(2) The net primary energy requirements for the operation of the eligible portion of the treatment works excluding conventional sewer lines are at least 20 percent less than the net energy requirements of the least net energy alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., the net energy requirements are no more than 80 percent of those for the least net energy noninnovative alternative). The least net energy noninnovative alternative must be one of the alternatives selected for analysis under section 5 of appendix A.

(3) The operational reliability of the treatment works is improved in terms of decreased susceptibility to upsets or inter-

ference, reduced occurrence of inadequately treated discharges and decreased levels of operator attention and skills required.

(4) The treatment works provides for better management of toxic materials which would otherwise result in greater environmental hazards.

(5) The treatment works results in increased environmental benefits such as water conservation, more effective land use, improved air quality, improved ground water quality, and reduced resource requirements for the construction and operation of the works.

(6) The treatment works provide for new or improved methods of joint treatment and management of municipal and industrial wastes that are discharged into municipal systems.

[43 FR 44049, Sept. 27, 1978, as amended at 44 FR 37596, June 27, 1979; 44 FR 39340, July 5, 1979]

Subparts F-G [Reserved]

Subpart H—Cooperative Agreements for Protecting and Restoring Publicly Owned Freshwater Lakes

AUTHORITY: Sections 314, 501 and 518, Clean Water Act (86 Stat. 816, 33 U.S.C. 1251 *et seq.*).

SOURCE: 45 FR 7792, Feb. 5, 1980, unless otherwise noted.

§ 35.1600 Purpose.

This subpart supplements the EPA general grant regulations and procedures (part 31 of this chapter) and establishes policies and procedures for cooperative agreements to assist States and Indian tribes treated as States in carrying out approved methods and procedures for restoration (including protection against degradation) of publicly owned freshwater lakes.

[45 FR 7792, Feb. 5, 1980, as amended at 54 FR 14359, Apr. 11, 1989]

§ 35.1603 Summary of clean lakes assistance program.

(a) Under section 314 of the Clean Water Act, EPA may provide financial assistance to States to implement methods and procedures to protect and restore publicly owned freshwater lakes. Although cooperative agreements may be awarded only to States, these regulations allow States, through

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substate agreements, to delegate some or all of the required work to substate agencies.

(b) Only projects that deal with publicly owned freshwater lakes are eligible for assistance. The State must have assigned a priority to restore the lake, and the State must certify that the lake project is consistent with the State Water Quality Management Plan (§35.1521) developed under the State/EPA Agreement. The State/EPA Agreement is a mechanism for EPA Regional Administrators and States to coordinate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and other laws administered by EPA.

(c) These regulations provide for Phase 1 and 2 cooperative agreements. The purpose of a Phase 1 cooperative agreement is to allow a State to conduct a diagnostic-feasibility study to determine a lake's quality, evaluate possible solutions to existing pollution problems, and recommend a feasible program to restore or preserve the quality of the lake. A Phase 2 cooperative agreement is to be used for implementing recommended methods and procedures for controlling pollution entering the lake and restoring the lake. EPA award of Phase 1 assistance does not obligate EPA to award Phase 2 assistance for that project. Additionally, a Phase 1 award is not a prerequisite for receiving a Phase 2 award. However, a Phase 2 application for a proposed project that was not evaluated under a Phase 1 project shall contain the information required by appendix A.

(d) EPA will evaluate all applications in accordance with the application review criteria of §35.1640-1. The review criteria include technical feasibility, public benefit, reasonableness of proposed costs, environmental impact, and the State's priority ranking of the lake project.

(e) Before awarding funding assistance, the Regional Administrator shall determine that pollution control measures in the lake watershed authorized by section 201, included in an approved 208 plan, or required by section 402 of the Act are completed or are being implemented according to a schedule that is included in an approved plan or dis-

charge permit. Clean lakes funds may not be used to control the discharge of pollutants from a point source where the cause of pollution can be alleviated through a municipal or industrial permit under section 402 of the Act or through the planning and construction of wastewater treatment facilities under section 201 of the Act.

§ 35.1605 Definitions.

The terms used in this subpart have the meanings defined in sections 502 and 518(h) of the Act. In addition, the following terms shall have the meaning set forth below.

[45 FR 7792, Feb. 5, 1980, as amended at 54 FR 14359, Apr. 11, 1989]

§ 35.1605-1 The Act.

The Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*).

§ 35.1605-2 Freshwater lake.

Any inland pond, reservoir, impoundment, or other similar body of water that has recreational value, that exhibits no oceanic and tidal influences, and that has a total dissolved solids concentration of less than 1 percent.

§ 35.1605-3 Publicly owned freshwater lake.

A freshwater lake that offers public access to the lake through publicly owned contiguous land so that any person has the same opportunity to enjoy nonconsumptive privileges and benefits of the lake as any other person. If user fees are charged for public use and access through State or substate operated facilities, the fees must be used for maintaining the public access and recreational facilities of this lake or other publicly owned freshwater lakes in the State, or for improving the quality of these lakes.

§ 35.1605-4 Nonpoint source.

Pollution sources which generally are not controlled by establishing effluent limitations under sections 301, 302, and 402 of the Act. Nonpoint source pollutants are not traceable to a discrete identifiable origin, but generally result from land runoff, precipitation, drainage, or seepage.