

**§ 35.604**

competitive process is complete, the recipient can, at its discretion, accept the award as a separate cooperative agreement or add the funds to a Performance Partnership Grant. If the recipient chooses to add the funds to a Performance Partnership Grant, the water quality work plan commitments must be included in the Performance Partnership Grant work plan.

**§ 35.604 Maximum federal share.**

The Regional Administrator may provide up to 100 percent of approved work plan costs.

WETLANDS DEVELOPMENT GRANT  
PROGRAM (SECTION 104(B)(3))

**§ 35.610 Purpose.**

(a) *Purpose of section.* Sections 35.610 through 35.615 govern wetlands development grants to Tribes and Intertribal Consortia under section 104(b)(3) of the Clean Water Act. These sections do not govern wetlands development grants under section 104(b)(3) to organizations that do not meet the definitions of Tribe or Intertribal Consortium in § 35.502; such grants generally are subject to the uniform administrative requirements for grants at 40 CFR part 30.

(b) *Purpose of program.* EPA awards wetlands development grants to assist in the development of new, or the refinement of existing, wetlands protection and management programs.

**§ 35.613 Competitive process.**

Wetlands development grants are awarded on a competitive basis. EPA annually establishes a deadline for receipt of grant applications. EPA reviews applications and decides which grant projects to fund based on criteria established by EPA. After the competitive process is complete, the recipient can, at its discretion, accept the award as a wetlands development program grant or add the funds to a Performance Partnership Grant. If the recipient chooses to add the funds to a Performance Partnership Grant, the wetlands development program work plan commitments must be included in the Performance Partnership Grant work plan.

**40 CFR Ch. I (7-1-04 Edition)**

**§ 35.615 Maximum federal share.**

EPA may provide up to 75 percent of the approved work plan costs for the development or refinement of a wetlands protection and management program.

NONPOINT SOURCE MANAGEMENT GRANTS  
(SECTIONS 319(H) AND 518(F))

**§ 35.630 Purpose.**

(a) *Purpose of section.* Sections 35.630 through 35.638 govern nonpoint source management grants to eligible Tribes and Intertribal Consortia under sections 319(h) and 518(f) of the Clean Water Act.

(b) *Purpose of program.* Nonpoint source management grants may be awarded for the implementation of EPA-approved nonpoint source management programs, including groundwater quality protection activities that will advance the approved nonpoint source management program.

**§ 35.632 Definition.**

*Tribe.* Any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation.

**§ 35.633 Eligibility requirements.**

A Tribe or Intertribal Consortium is eligible to receive a Nonpoint Source Management grant if EPA has determined that the Tribe or each member of the Intertribal Consortium meets the requirements for treatment in a manner similar to a State under section 518(e) of the Clean Water Act (see 40 CFR 130.6(d)).

**§ 35.635 Maximum federal share.**

(a) The Regional Administrator may provide up to 60 percent of the approved work plan costs in any fiscal year. The non-federal share of costs must be provided from non-federal sources.

(b) The Regional Administrator may increase the maximum federal share if the Tribe or Intertribal Consortium can demonstrate in writing to the satisfaction of the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is

## Environmental Protection Agency

## § 35.640

a member of the Intertribal Consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship. In no case shall the federal share be greater than 90 percent.

### § 35.636 Maintenance of effort.

To receive funds under section 319 in any fiscal year, a Tribe or each member of an Intertribal Consortium must agree that the Tribe or each member of the Intertribal Consortium will maintain its aggregate expenditures from all other sources for programs for controlling nonpoint source pollution and improving the quality of the Tribe's or the Intertribal Consortium's members' waters at or above the average level of such expenditures in Fiscal Years 1985 and 1986.

### § 35.638 Award limitations.

(a) *Available funds.* EPA may use no more than the amount authorized under the Clean Water Act section 319 and 518(f) for making grants to Tribes or Intertribal Consortia.

(b) *Financial assistance to persons.* Tribes or Intertribal Consortia may use funds for financial assistance to persons only to the extent that such assistance is related to the cost of demonstration projects.

(c) *Administrative costs.* Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with these funds shall not exceed 10 percent of the funds the Tribe or Intertribal Consortium receives in any fiscal year. The cost of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs are not subject to this limitation.

(d) The Regional Administrator will not award section 319(h) funds to any Tribe or Intertribal Consortium unless:

(1) *Approved assessment report.* EPA has approved the Tribe's or each member of the Intertribal Consortium's Assessment Report on nonpoint sources, prepared in accordance with section 319(a) of the Act;

(2) *Approved Tribe or Intertribal Consortium management program.* EPA has

approved the Tribes's or each member of the Intertribal Consortium's management program for nonpoint sources, prepared in accordance with section 319(b) of the Act;

(3) *Progress on reducing pollutant loadings.* The Regional Administrator determines, for a Tribe or Intertribal Consortium that received a section 319 funds in the preceding fiscal year, that the Tribe or each member of the Intertribal Consortium made satisfactory progress in meeting its schedule for achieving implementation of best management practices to reduce pollutant loadings from categories of nonpoint sources, or particular nonpoint sources, designated in the Tribe's or each Consortium member's management program. The Tribe or each member of the Intertribal Consortium must develop this schedule in accordance with section 319(b)(2) of the Act;

(4) *Activity and output descriptions.* The work plan briefly describes each significant category of nonpoint source activity and the work plan commitments to be produced for each category; and

(5) *Significant watershed projects.* For watershed projects whose costs exceed \$50,000, the work plan contains:

(i) A brief synopsis of the watershed implementation plan outlining the problems to be addressed;

(ii) The project's goals and objectives; and

(iii) The performance measures and environmental indicators that will be used to evaluate the results of the project.

## PESTICIDE COOPERATIVE ENFORCEMENT (SECTION 23(A)(1))

### § 35.640 Purpose.

(a) *Purpose of section.* Sections 35.640 through 35.645 govern cooperative agreements to Tribes and Intertribal Consortia authorized under section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act for pesticide enforcement.

(b) *Purpose of program.* Cooperative agreements are awarded to assist Tribes and Intertribal Consortia in implementing pesticide enforcement programs.