

## Environmental Protection Agency

## § 35.9015

State or Indian Tribe will be specified in the SSC.

(2) *Political subdivision-lead.* The political subdivision must submit to the State a copy of all reports which the political subdivision is required to submit to EPA in accordance with the requirements of its Cooperative Agreement. (See §35.6650 for requirements regarding quarterly progress reports.)

(d) *Records.* The State and political subdivision or Indian Tribe must maintain records on a site-specific basis. The State and political subdivision or Indian Tribe must comply with the requirements regarding record retention described in §35.6705 and the requirements regarding record access described in §35.6710.

### § 35.6820 Conclusion of the SSC.

In order to conclude the SSC, the signatories must:

(a) Satisfactorily complete the response activities at the site and make all payments based upon project costs determined in §35.6805(j);

(b) Produce a final accounting of all project costs, including change orders and outstanding contractor claims; and

(c) Submit all State cost-share payments to EPA (see §35.6805(i)(5)), undertake responsibility for O&M, and, if applicable, accept interest in real property (see §35.6805(i)(4)).

### Subpart P—Financial Assistance for the National Estuary Program

AUTHORITY: Sec. 320 of the Clean Water Act, as amended (33 U.S.C. 1330).

SOURCE: 54 FR 40804, Oct. 3, 1989 (interim), unless otherwise noted.

### § 35.9000 Applicability.

This subpart codifies policies and procedures for financial assistance awarded by the EPA to State, interstate, and regional water pollution control agencies and entities and other eligible agencies, institutions, organizations, and individuals for pollution abatement and control programs under the National Estuary Program (NEP). These provisions supplement the EPA general assistance regulations in 40 CFR parts 30 and 31.

### § 35.9005 Purpose.

Section 320(g) of the Clean Water Act (CWA) authorizes assistance to eligible States, agencies, entities, institutions, organizations, and individuals for developing a comprehensive conservation and management plan (CCMP) for an estuary.

### § 35.9010 Definitions.

*Aggregate costs.* The total cost of all research, surveys, studies, modeling, and other technical work completed by a Management Conference during a fiscal year to develop a Comprehensive Conservation and Management Plan for the estuary.

*Annual work plan.* The plan, developed by the Management Conference each year, which documents projects to be undertaken during the upcoming year. The Annual Work Plan is developed within budgetary targets provided by EPA.

*Five-Year State/EPA Conference Agreement.* Agreement negotiated among the States represented in a Management Conference and the EPA shortly after the Management Conference is convened. The agreement identifies milestones to be achieved during the term of the Management Conference.

*Management Conference.* A Management Conference convened by the Administrator under Section 320 of the CWA for an estuary in the NEP.

*National Program Assistance Agreements.* Assistance Agreements approved by the EPA Assistant Administrator for Water for work undertaken to accomplish broad NEP goals and objectives.

*Work Program.* The Scope of Work of an assistance application, which identifies how and when the applicant will use funds to produce specific outputs.

### § 35.9015 Summary of annual process.

(a) EPA considers various factors to allocate among the Management Conferences the funds requested in the President's budget for the NEP. Each year, the Director of the Office of Marine and Estuarine Protection issues budgetary targets for the NEP for each Management Conference. These targets are based upon negotiated Five-Year State/EPA Conference Agreements.

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(b) Using the budgetary targets provided by EPA, each Management Conference develops Annual Work Plans describing the work to be completed during the year and identifies individual projects to be funded for the completion of such work. Each applicant having a scope of work approved by the Management Conference completes a standard EPA application, including a proposed work program. After the applicant submits an application, the Regional Administrator reviews it and, if it meets applicable requirements, approves the application and agrees to make an award when funds are available. The Regional Administrator awards assistance from funds appropriated by Congress for that purpose.

(c) The recipient conducts activities according to the approved application and assistance award. The Regional Administrator evaluates recipient performance to ensure compliance with all conditions of the assistance award.

(d) The Regional Administrator may use funds not awarded to an applicant to supplement awards to other recipients who submit a score of work approved by the management conference for NEP funds.

(e) The EPA Assistant Administrator for Water may approve National Program awards as provided in § 35.9070.

### § 35.9020 Planning targets.

The EPA Assistant Administrator for Water develops planning targets each year to help each Management Conference develop an Annual Work Plan. These targets are broad budgetary goals for total expenditures by each estuary program and are directly related to the activities that are to be carried out by each Management Conference in that year as specified in the Five-Year State/EPA Conference Agreement. The planning targets also are based on the Director's evaluation of the ability of each Management Conference to use appropriated funds effectively.

### § 35.9030 Work program.

The work program is part of the application for financial assistance and becomes part of the award document. It is part of the basis for an award decision and the basis for management and

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evaluation of performance under an assistance award. The work program must specify the level of effort and amount and source of funding estimated to be needed for each identified activity, the outputs committed for each activity, and the schedule for delivery of outputs.

### § 35.9035 Budget period.

An applicant may choose its budget period in consultation with and subject to the approval of the Regional Administrator.

### § 35.9040 Application for assistance.

Each applicant should submit a complete application at least 60 days before the beginning of the budget period. In addition to meeting applicable requirements contained in 40 CFR part 30 or 31, a complete application must contain a discussion of performance to date under an existing award, the proposed work program, and a list of all applicable EPA-approved State strategies and program plans, with a statement certifying that the proposed work program is consistent with these elements. The annual workplan developed and approved by the management conference each fiscal year must demonstrate that non-Federal sources provide at least 25 percent of the aggregate costs of research, surveys, studies, modeling, and other technical work necessary for the development of a CCMP for the estuary. Each application must contain a copy of the Annual Work Plan as specified in § 35.9065(c) (2) and (3) for the current Federal fiscal year. The funding table in the workplan must demonstrate that the 25 percent match requirements is being met, and the workplan table of project status must show the sources of funds supporting each project.

### § 35.9045 EPA action on application.

The Regional Administrator will review each completed application and should approve, conditionally approve, or disapprove the application within 60 days of receipt. When funds are available, the Regional Administrator will award assistance based on an approved or conditionally approved application. For a continuation award made after the beginning of the approved budget