

(g) The pretreatment program developed under paragraph (b) of this section is subject to the Regional Administrator's approval under § 35.935-19 and must be implemented in accordance with part 403 of this chapter.

**§ 35.908 Innovative and alternative technologies.**

(a) *Policy.* EPA's policy is to encourage and, where possible, to assist in the development of innovative and alternative technologies for the construction of waste water treatment works. Such technologies may be used in the construction of waste water treatment works under this subpart as § 35.915-1, § 35.930-5, appendix E, and this section provide. New technology or processes may also be developed or demonstrated with the assistance of EPA research or demonstration grants awarded under Title I of the Act (see part 40 of this subchapter).

(b) *Funding for innovative and alternative technologies.* (1) Projects or portions of projects which the Regional Administrator determines meet criteria for innovative or alternative technologies in appendix E may receive 85-percent grants (see § 35.930-5).

(i) Only funds from the reserve in § 35.915-1(b) shall be used to increase these grants from 75 to 85 percent.

(ii) Funds for the grant increase shall be distributed according to the chronological approval of grants, unless the State and the Regional Administrator agree otherwise.

(iii) The project must be on the fundable portion of the State project priority list.

(iv) If the project is an alternative to conventional treatment works for a small community (a municipality with a population of 3,500 or less or a highly dispersed section of a larger municipality, as defined by the Regional Administrator), funds from the reserve in § 35.915(e) may be used for the 75 percent portion of the Federal grant.

(v) Only if sewer related costs qualify as alternatives to conventional treatment works for small communities are they entitled to the grant increase from 75 to 85 percent, either as part of the entire treatment works or as components.

(2) A project or portions of a project may be designated innovative or alternative on the basis of a facilities plan or on the basis of plans and specifications. A project that has been designated innovative on the basis of the facilities plan may lose that designation if plans and specifications indicate that it does not meet the appropriate criteria stated in section 6 of appendix E.

(3) Projects or portions of projects that receive step 2, step 3, or step 2=3 grant awards after December 27, 1977, from funds allotted or reallocated in fiscal year 1978 may also receive the grant increase from funds allotted for fiscal year 1979 for eligible portions that meet the criteria for alternative technologies in appendix E, if funds are available for such purposes under § 35.915-1(b).

(c) *Modification or replacement of innovative and alternative projects.* The Regional Administrator may award grant assistance to fund 100 percent of the eligible costs of the modification or replacement of any treatment works constructed with 85-percent grant assistance if:

(1) He determines that:

(i) The facilities have not met design performance specifications (unless such failure is due to any person's negligence);

(ii) Correction of the failure requires significantly increased capital or operating and maintenance expenditures; and

(iii) Such failure has occurred within the 2-year period following final inspection; and

(2) The replacement or modification project is on the fundable portion of the State's priority list.

(d) *Sole source procurement.* A determination by the Regional Administrator under this section that innovative criteria have been met will serve as the basis for sole source procurement (see § 35.936-13(b)) for step 3, if appropriate, to achieve the objective of demonstrating innovative technology.

**§ 35.909 Step 2+3 grants.**

(a) *Authority.* The Regional Administrator may award grant assistance for a step 2=3 project for the combination of design (step 2) and construction