

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6171-7]

Performance Partnership Grants for State and Tribal Environmental Program: Revised Interim Guidance**AGENCY:** Environmental Protection Agency.**ACTION:** Notice.

SUMMARY: The "Performance Partnership Grants for State and Tribal Environmental Programs: Revised Interim Guidance" is the revised version of the Performance Partnership Grant (PPG) guidance dated July 1996. This revision reflects the expanded authority provided in EPA's FY 1998 Appropriation Act to award PPGs to Interstate Agencies, Intertribal Consortia, and Air Pollution Control Agencies. The revision also incorporates some of the policy decisions made since July 1996 that impact PPGs. These decisions include items such as replacing references to four different application requirements with one set of requirements, adding new definitions and terms to reflect results-based management, adding the term "workplan component" along with requirements that the work plan be organized by workplan components, incorporating the use of multi-year grant budget periods, and adding Government Performance and Results Act (GPRA) reporting language. This revised guidance will serve as the operating guidance for States and Tribes interested in applying for PPGs. EPA will be proposing regulations governing the PPG program in FY1999.

PPGs are intended to provide States and Tribes with greater flexibility to address their highest environmental priorities, improve environmental performance, achieve administrative savings, and strengthen partnerships between EPA and the States or Tribes.

EFFECTIVE DATE: October 6, 1998.

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SUPPLEMENTARY INFORMATION: PPGs are a powerful funding tool that EPA is offering to eligible States and Tribes. A PPG is a multi-program grant awarded to a State or Interstate Agency, or Tribe or Intertribal Consortium from funds otherwise available for categorical grant programs. A State or Tribe can combine funds from 2 or more of 17 eligible grant

programs into 1 or more PPGs. Recipients may then use PPGs to fund activities that are within the cumulative eligibilities of the 17 eligible grant programs.

EPA encourages States and Tribes to take advantage of PPGs. These grants enable State and Tribes to better direct their funding toward their most critical environmental problems while continuing to address core program requirements, better address multi-media high priority strategies such as community-based environmental protection, pollution prevention, and environmental justice, and reduce administrative burdens and costs by reducing the numbers of grants applications, budget, workplans, and reports. States and Tribes interested in pursuing PPGs should work in partnership with their Regional office to develop a PPG that funds solutions to the highest environmental priorities and ensures that EPA statutory and program requirements are met.

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this guidance rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This guidance is not a "major rule" as defined by 5 U.S.C. 804(2).

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Dated: September 22, 1998.

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Dated: September 21, 1998.

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Performance Partnership Grants Guidance

Executive Summary

Performance Partnership Grants (PPGs): A PPG is a multi-program grant made to a State or Tribal agency by the U.S. Environmental Protection Agency (EPA) from funds allocated and otherwise available for categorical grant programs. PPGs provide States and Tribes with the option to combine funds from two or more categorical grants into one or more PPGs.

Purpose

- Flexibility. States and Tribes will have the flexibility to address their highest environmental priorities across all media and establish resource allocations based on those priorities, while continuing to address core program requirements.
- Improved Environmental Performance. States and Tribes can: (1) more effectively link program activities with environmental goals and program outcomes; and (2) develop innovative pollution prevention, ecosystem, and community-based strategies.
- Administrative Savings. Recipients and EPA can reduce administrative burdens and costs by greatly reducing the numbers of grant applications, budgets, work plans, and reports.
- Strengthened Partnerships. EPA will develop partnerships with States and Tribes where both parties share the same environmental and program goals and deploy their unique resources and abilities to jointly accomplish those goals.

Authority

- Authorization for PPGs is contained in the 1996 Omnibus Consolidated Rescissions and Appropriations Act (PL 104-134). EPA's 1998 Appropriation Act expanded the authority to award PPGs to Interstate Agencies, Intertribal Consortia, and Air Pollution Control Agencies.
- Authority applies to funds from seventeen program grants funded from EPA's State and Tribal Assistance Grants (STAG) appropriation.

Eligibility

- All States and federally recognized Indian Tribes (including environmental,

health, agriculture, and other State/Tribal agencies) eligible to receive more than one categorical grant in Fiscal Year (FY) 1999 are eligible to receive PPGs.

- Local agencies are eligible if they: (1) are eligible under state authority to implement EPA funded programs; and (2) receive direct funding from EPA for two or more of the eligible grant programs.
- Certain Interstate Agencies and Intertribal Consortia are eligible, to the extent of their eligibility for the underlying categorical grant funds. Intertribal Consortia are eligible for the following categorical grants: General Assistance Program (GAP) grants (Indian Environmental General Assistance Program Act of 1992), Wetlands Program Development Grants (CWA 104(b)(3)), Water Quality Cooperative Agreements (CWA 104(b)(3)), and Water Pollution Control Grants (CWA 106). The proposed regulation established at 40 CFR Subpart B would make Intertribal consortia eligible for all of the remaining programs.
- PPGs do not affect State or Tribal agency "pass-through" grants to local or other agencies.
- State/Tribal agency eligibility is subject to the authority of the governor or State legislature, or Tribal authorities, as appropriate.

Application

- States and Tribes may apply for PPGs for any budget period, including multi-year awards, though EPA recommends not exceeding five years. The application must include a work plan corresponding to the proposed budget period. PPG work plan commitments are the programmatic basis for the PPG award and grant accountability. Commitments may consist of environmental indicators, performance measures (including measures of activity), and narrative descriptions of program activities or work plan components. PPG work plan commitments must include core performance measures or accountability measures, as defined by appropriate environmental statutes, regulations and EPA or State policy. PPG work plan commitments may be contained in categorical or PPG work plans, in a Performance Partnership Agreement (PPA) or Tribal Environmental Agreement (TEA).

Funding and State/Tribal Cost Share

- EPA's allocation of grant funds to States will be the same whether the funds are awarded as PPGs or categorically. PPGs do not adversely

affect a Tribe's ability to compete for any grant.

- PPGs may fund any activities eligible to be funded under seventeen specified EPA grant authorities.
- EPA's policy is that States and Tribes should continue to spend the same amount of funds for environmental programs under PPGs as under categorical grants. Although, under PPGs, recipients will have the flexibility to realign those resources among environmental programs based on negotiated priorities including those in the PPG work plan, the total resources of the State or Tribe, both Federal and non-Federal, targeted to environmental programs should not be reduced, except in exceptional circumstances, for example, where a State or Tribe reduces funds across all State or Tribal agencies. Thus, the required cost share (based on the match or maintenance of effort requirements of the categorical grants included in the PPG) will be the same under PPGs as under categorical grants, unless EPA determines that there are exceptional circumstances justifying a reduction in cost share for a PPG for the year that the PPG is awarded.
- Applicants may have a single PPG budget for accounting and reporting purposes.

State/Tribal Options

- The content of each PPG depends on its purpose and the extent to which a recipient would like to deviate from traditional categorical work plans or enter the National Environmental Performance Partnership System (NEPPS) or complete a Tribal-EPA Agreement (TEA).
- PPGs may include all of an agency's federally-funded environmental programs, a single media (e.g. water), or a single function (e.g. compliance).
- The State or Tribe usually decides which grants to include in a PPG, with EPA concurrence.

EPA Regional Implementation

- EPA's Regional Administrators will be the designated approval and award officials for PPGs, with the ability to redelegate authority within their Regions.
- EPA Regions will designate a single grant Project Officer for each PPG.
- When State/Tribal PPG proposals present significant national policy issues or propose to deviate from National Program Guidance, EPA Regions will consult with EPA's national program managers.

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Section 1. Overview of the U.S. Environmental Protection Agency's Performance Partnership Grant Program

Section 1.1 Scope of Guidance. A Performance Partnership Grant (PPG) is a single grant made to a State or Tribe (or Interstate Agency, Intertribal Consortium, or local agency) from grant funds allocated and otherwise available for existing categorical grant programs. PPGs are voluntary and provide States and Tribes with the option to combine funds from two or more categorical grants into one or more PPGs. Recipients may receive their financial assistance as one or more PPG(s), or continue receiving funds as categorical grants.

This Guidance applies to PPGs for FY 1999, and will remain in effect until superseded by statute, federal regulation, or amended guidance. It supersedes "Performance Partnership Grants for State and Tribal Programs: Revised Interim Guidance," published in the **Federal Register** on August 19, 1996. This Guidance applies to: (1) State and Interstate Agencies, Tribes, Intertribal Consortia, and local Agencies that apply for or are awarded PPGs; (2) EPA Regions that approve, award, and administer PPGs; (3) EPA National Program Managers for any funds eligible for inclusion in PPGs; and (4) EPA Headquarters offices responsible for the administrative or policy management of PPGs.

EPA expects to issue proposed regulations for PPGs during FY 1999. The Agency has solicited extensive stakeholder involvement in the development of these regulations, which are currently in draft. Final regulations are anticipated in FY 1999.

Section 1.2 Organization. The guidance is divided into two parts. Sections 1-3 present an overview of the new program, explaining the purpose and expected benefits of PPGs, and identifying eligible grants, recipients, and activities. Sections 4-8 provide more specific guidance to Federal, State, and Tribal officials responsible for implementing the grant program. States and Tribes are presented a variety of options for how to apply for and manage

PPGs. Section 4, in particular, helps applicants identify reasons for applying for a PPG and provides application criteria. Each section includes a checklist of steps and options.

Section 1.3 Purpose And Goals. President Clinton announced Performance Partnership Grants on March 16, 1995, as part of the Administration's program to "Reinvent Environmental Regulation." PPGs are a part of EPA's continuing effort to reinvent government and build State and Tribal environmental protection capacity. This voluntary program is a response to recommendations from various internal and external stakeholders¹ to:

- Increase State and Tribal flexibility,
- Help States and Tribes improve environmental performance,
- Achieve administrative savings by streamlining the grants process, and
- Strengthen EPA partnerships with State and Tribal governments.

These previous recommendations have formed the basis for the purposes and goals of the PPG program, as described below:

Flexibility. PPGs will provide States and Tribes with flexibility to address their most pressing environmental priorities across all media and establish resource allocations based on those priorities, while continuing to address core work plan commitments. Potential recipients may apply for a PPG to replace up to seventeen eligible categorical grants, some of the seventeen (e.g., water media PPG), or portions of some of them (e.g., an enforcement PPG). They will allow recipients to more effectively administer core statutory, regulatory and non-regulatory programs. Recipients will also be able to develop innovative multimedia programs and activities that are difficult to fund with separate categorical grants. Moreover, recipients will have the option of developing multi-year planning.

Improved Environmental Performance. PPGs will encourage States and Tribes to improve environmental performance and more effectively link program goals with program outcomes. Recipients will be able to establish priorities across all environmental programs, and integrate

strategic goals such as pollution prevention and community-based environmental protection into their program planning. States and Tribes will be able to achieve these objectives by:

- Coordinating and integrating activities which are now fragmented under many statutes, regulations, and programs,
- Conducting assessments to define environmental problems and set priorities with the public,
- Targeting the most significant environmental problems,
- Building environmental protection capacity through training, technical assistance and other appropriate means, and
- Using common sense and multimedia environmental protection strategies such as pollution prevention, ecosystem protection, community-based protection and environmental justice.

The emphasis on improved environmental performance will be achieved by increasing the use of environmental indicators and program performance measures, and decreasing the reporting of inputs and activities. Core Performance measures, to be developed jointly by EPA and each State or Tribe, will gauge progress toward agreed upon goals (see Section 1.6). Improved performance measures will provide the foundation for better reporting, monitoring, and assessment of State, Tribal and national environmental conditions. EPA expects that targeted strategic approaches and improved performance measures, when implemented together, will accelerate long-term systematic improvements in environmental conditions. (Core performance measures for Tribal programs are still evolving; until EPA has negotiated these measures with the Tribes, the Regions should use key work plan goals and objectives to reflect the new GPRA requirements.)

Administrative Savings. EPA, States, and Tribes expect PPGs to reduce administrative burdens and costs by reducing the overall number of grant applications, work plans, reports and certifications associated with traditional, single media federal grants. Multi-year planning may also contribute to reduced administrative costs.

Strengthened Partnerships. EPA will develop partnerships with States and Tribes where both parties share the same environmental and program goals and jointly deploy their unique resources and abilities to accomplish those goals.

Section 1.4 The National Environmental Performance Partnership System. On May 17, 1995, State and

¹ The National Performance Review ("Creating a Government That Works Better and Costs Less"), September 1992; EPA's State-EPA Capacity Steering Committee recommendations in "Strengthening Environmental Management in the United States, Report of the Task Force to Enhance State Capacity," Environmental Protection Agency, Office of the Administrator, EPA-270-R-93-001, July 1993; and the National Academy of Public Administration Report ("Setting Priorities, Getting Results: A New Direction for EPA"), April 1995.

EPA leaders signed a "Joint Commitment to Reform Oversight and Create a National Environmental Performance Partnership System" (NEPPS). The objective of signing this agreement was to accelerate the transition to a new working relationship between EPA and the States—one which reflects the advancement made in environmental protection over the preceding two decades by both the States and EPA.

Key goals that this new partnership agreement share with PPGs are: to allow States and EPA to achieve improved environmental results by directing scarce public resources toward the highest priority, highest value activities; to provide States with greater flexibility to achieve those results; to improve public understanding of environmental conditions and choices; and to enhance accountability to the public and taxpayers. Other key goals of the NEPPS agreement are increased reliance on self-management by State programs and a differential approach to oversight that serves as an incentive for State programs to perform well, rewarding strong programs and freeing up federal resources to address problems where State programs need assistance.

NEPPS and PPGs share many of the same objectives. Of course, States may apply for PPGs without entering NEPPS (and vice-versa). But where States wish to apply for PPGs and enter NEPPS, the processes and documentation are integrated and, where appropriate, identical. The Performance Partnership Agreement (PPA) is a document that is common to both PPGs and NEPPS. For States doing both, the PPA will allow the processes and documentation to be integrated (see Section 4.3 for more details).

Section 1.5 Tribal Environmental Agreements. On July 14, 1994, Administrator Browner issued a nine-point Action Memorandum on Strengthening Tribal Operations which called for the development of Tribal-EPA Workplans (now called Tribal Environmental Agreements) to be jointly developed by EPA Regions and Tribes. In consultation with the Agency's Tribal Operations Committee, the American Indian Environmental Office and the National Indian Work Group developed guidance for the Tribal Environmental Agreements (TEAs). Currently, EPA Regions and Tribes are developing TEAs, many of which will be signed within the next year.

The TEAs (signed by the EPA Regional Administrator and the Tribal leadership) are a planning tool which clearly identifies the Tribe's environmental objectives, expected

outcomes and resource needs, and implementation and management assistance needed from EPA. The Agreements establish the Tribe's environmental objectives over 3–4 years, but are flexible documents that can be changed to meet Tribal needs.

For Tribal PPGs, the TEAs are comparable to the State PPAs. In order for the TEAs to serve as commitment documents where Tribes are shifting funds, Tribes wanting to enter a PPG will have to include a specific section on the anticipated PPG funds and work plan commitments in addition to the other elements of the TEA or as an amendment to an already signed TEA. By using the TEA instead of the PPA, the Tribes will not have to conduct two planning processes. The addition of a commitment section to the TEA should ensure that PPG funding shifts, commitments, and expectations are clearly defined in one document signed by both the Tribe and EPA. TEAs will be required for Tribes wherever PPAs are required for States.

Section 1.6 PPG Accountability And Performance Measures. All PPGs will be required to contain a legally binding set of work plan commitments. These work plan commitments will be the primary basis for evaluating the success of a PPG. Some work plan commitments will be required in all PPGs because they are required by statute, regulation, standing legal agreements between EPA and States/Tribes (e.g., Delegation Agreements), or National Program Manager/Regional program guidance. Others will be optional.

For the purposes of this PPG guidance, work plan commitments are "a description of the PPG program goals and objectives, results and benefits expected, a plan of action, and quantifiable projections of the program and environmental accomplishments to be achieved and the performance measures to be used. Where accomplishments cannot be quantified, activities can be listed to show the schedule of accomplishments. PPG work plan commitments are the legal basis for the expenditure of federal grant funds and the recipient's matching requirement" (see Section 1.7). EPA will continue to work with States and Tribes to define the elements of work plan commitments, including national environmental goals and performance measures.

As EPA and States/Tribes negotiate work plan commitments under PPGs, they should use performance measures that measure program and environmental outcomes and outputs. Performance measures that are PPG work plan commitments should be

quantifiable, measurable, and verifiable. Specifically, all States and Tribes should adopt outcome and output-oriented performance measures that track program performance and environmental conditions and trends.

Appropriate accountability provisions are essential in designing the new PPG program. A fundamental goal of EPA's efforts to design accountability provisions into PPGs is to begin moving Federal, State, and Tribal programs toward the use of results-oriented measures of environmental and program performance that are understandable and meaningful to the public. In recent years, EPA, States, and Tribes, with input from the stakeholders and the public, have embarked on new and innovative strategic directions and developed or tested innovative performance measures that are a natural fit to incorporate into PPGs. EPA believes that PPG performance measures should be consistent with ongoing EPA and State or Tribal initiatives, such as The New Generation of Environmental Protection: EPA's Five-Year Strategic Plan,² the National Environmental Goals Project, and EPA National Program core performance measures (developed under the NEPPS). EPA's National Program Guidances generally contain the national core performance measures. A more comprehensive list of optional environmental indicators may be found in Prospective Indicators for State Use in Performance Agreements prepared under a cooperative agreement with the Florida Center for Public Management, Florida State University. Although this report provides a preliminary list of national environmental indicators that may be helpful to States and EPA looking for good ideas about available environmental indicators,³ Tribes may also find them applicable.

Specific performance measures are required only if they are required by statute, regulation or standing legal agreements between EPA and States/Tribes (e.g., Delegation Agreements), or if EPA National Program Managers or Regions have required them in guidance or policy.

Section 1.7 Definitions. Agency—United States Environmental Protection Agency (EPA).

Categorical Grant—Media-specific or multimedia grant for a particular program or narrowly defined activities.

National Environmental Performance Partnership System (NEPPS)—A new

² EPA 200nB-94-002.

³ To obtain a copy of the document, contact EPA's Office of Policy, at (202) 260-4332, or Florida State University at (904) 921-0423.

approach to developing and implementing the State-EPA partnership agreed to by the States and EPA. It contains seven principal components: (1) increased use of environmental indicators; (2) a new approach to program assessments by States; (3) Performance Partnership Agreements; (4) differential oversight; (5) Performance Leadership Programs; (6) public outreach and involvement; and (7) joint system evaluation.

National Program Manager—Individual responsible for setting the direction and policy for the management of an EPA media or enforcement program on a National level.

Outcome—The environmental result, effect, or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes must be quantitative, and they may not necessarily be achievable during a grant budget period. See "output".

Output—An environmental activity or effort and associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during a grant budget period. See "outcome".

Performance Partnership Agreement (PPA)—A negotiated agreement signed by the EPA Regional Administrator and an appropriate official of a State or interstate agency and designated as such. These agreements typically set out jointly developed goals, objectives, and priorities and include work plan commitments that are the basis for grants; the strategies to be used in meeting them; the roles and responsibilities of the State and EPA; and the measures to be used in assessing progress. A Performance Partnership Agreement may be used as all or part of a work plan for a grant if it meets the requirements for a work plan set out in Section 4.3.

Performance Partnership Grant (PPG)—A single grant combining funds from more than one environmental program. A Performance Partnership Grant may provide for administrative savings or programmatic flexibility to direct grant resources where they are most needed to address public health and environmental priorities. Each Performance Partnership Grant has a single, integrated budget and recipients do not need to account for grant funds in accordance with the funds' original environmental program sources.

Performance Partnership Grant Work Plan Commitments—The outputs and outcomes associated with each work plan component, as established in the grant agreement.

Performance Partnership Grant Work Plan Component—A negotiated set or group of work plan commitments established in the grant agreement. A work plan may have one or more work plan components.

Program Flexibility—Reduction of effort or elimination of a work plan component in order to invest in another media-specific or multimedia work plan component.

Tribal Environmental Agreement (TEA)—A strategic planning document designated as a TEA and signed by the Regional Administrator and an appropriate Tribal official that sets out negotiated environmental goals, objectives, outcomes, outputs, priorities, actions to be taken, and measures of performance. A TEA may be used as all or part of a work plan for a grant if it meets the requirements for a work plan set out in Section 4.3.

Section 2. Authority

Section 2.1—Statutory Authority. Authority for PPGs is contained in the 1996 Omnibus Consolidated Rescissions and Appropriations Act (P.L. 104-134). The authorizing language reads as follows:

That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe.

Additional statutory authority for the awards of PPGs to interstate agencies and intertribal consortia is contained in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, P.L. 105-65 (111 Stat. 1344, 1373 (1997)).

Section 2.2—Other Authorities. The requirements of 40 CFR Part 31, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," will apply to a PPG as they do to a categorical grant. Some limited exceptions to 40 CFR Part 31 may be necessary to accommodate these grants. EPA will manage such exceptions through the grant deviation process. Additional requirements are included in

substantive program regulations, OMB Circulars A-87 and A-102, the EPA Assistance Administration Manual, EPA-State/Tribal Memoranda of Agreement (MOA), NPM-Regional Guidance and MOA, the NEPPS agreement signed on May 17, 1995 (for States entering NEPPS), and E.O. 12372, "Intergovernmental Review of Federal Programs."

Section 3. Eligibility

Section 3.1—Eligible Applicants. All States, territories, interstate agencies, local agencies, Federally recognized Indian Tribes, and Intertribal Consortia eligible to receive more than one of the categorical grants referred to in Section 3.2 are eligible to receive a PPG(s). Any duly authorized State or Tribal entity that currently receives or is eligible to receive EPA categorical program grants may request a PPG for the funds it administers. This may include environmental, agricultural, and other agencies where authorized by State/Tribal law. Agencies that now receive pass-through funding from a State or Tribe may continue to receive such funding subject to applicable State, Tribal or Federal law. For any agency that now receives direct Federal funding, but is not eligible for a PPG (e.g., local air districts), EPA will continue to make Federal funding available pursuant to existing categorical grant authorities. Eligibility for PPGs is subject to the appropriate State, Tribal, or Territorial executive or legislative authorities. Interstate agencies and intertribal consortia may combine funds into a PPG if they are eligible under the authorizing statutory authorities to receive the grant funds.

In the case of proposals which combine funds currently awarded to separate, duly authorized State or Tribal agencies—such as combining funds from an environmental department with funds from program grants to an agriculture or health department—a joint proposal signed by the appropriate officials should indicate a method for sharing funds in addition to demonstrating the eligibility, planning, accountability and evaluation elements of PPGs described in this guidance.

If program eligibility, formerly referred to as Treatment as State (TAS), is required for a Tribal applicant to be eligible to receive categorical funding for a specific program, the Agency will require the same eligibility if the Tribal applicant intends to include funds for that categorical grant in the PPG or to use PPG funds for activities under that program.

EPA encourages applicants to combine funds from as many categorical

program grants as possible into a PPG to achieve maximum flexibility.

Section 3.2 Eligible Grant Programs. Funds available for the following seventeen grants identified in EPA's State and Tribal Assistance Grants (STAG) appropriation are eligible to be combined into a PPG:

- (1) Air pollution control (section 105 of the Clean Air Act).
- (2) Water pollution control (section 106 of the Clean Water Act).
- (3) Public water system supervision (section 1443(a) of the Safe Drinking Water Act).
- (4) Underground water source protection (section 1443(b) of the Safe Drinking Water Act).
- (5) Hazardous waste management (section 3011(a) of the Solid Waste Disposal Act).
- (6) Pesticide cooperative enforcement (section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act).
- (7) Pesticide applicator certification and training (section 23(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act).
- (8) Pesticide program implementation (section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act).
- (9) Nonpoint source management (sections 205(j)(5) and 319(h) of the Clean Water Act).
- (10) Lead-based paint program (section 404(g) of the Toxic Substances Control Act).
- (11) State indoor radon grants (section 306 of the Toxic Substances Control Act).
- (12) Toxic substances compliance monitoring (section 28(a) and (b) of the Toxic Substances Control Act).
- (13) State underground storage tanks (section 2007(f)(2) of the Solid Waste Disposal Act).
- (14) Pollution prevention incentives for states (section 6605 of the Pollution Prevention Act of 1990).
- (15) Water quality cooperative agreements (section 104(b)(3) of the Clean Water Act).
- (16) Wetlands development grants program (section 104(b)(3) of the Clean Water Act).
- (17) General Assistance Grants to Indian Tribes (Indian Environmental General Assistance Program Act of 1992). Only eligible Tribes can propose to include these funds in a PPG application.

Generally, grant funds that states combine into PPGs are those that provide for continuing, ongoing, environmental programs. Grants to capitalize Clean Water and Drinking

Water State Revolving Funds, and other amounts specified for stated purposes in the STAG account, are not eligible for inclusion in PPGs.

Because all EPA grants to Tribes are awarded through a competitive or discretionary process, Tribes will be allowed to include these grants in a PPG without adversely affecting their ability to compete for any grant. For competitive grants on the above list (e.g., pollution prevention incentives for states, wetlands program development, water quality cooperative agreements, general assistance program grants to Tribes) to be combined in a PPG, the state or tribe must first be approved to receive the competitive grant, and must identify specific output or outcome measures as a condition for adding the funds to a PPG. A State or Tribe may include these grant output measures in its PPG work plan. EPA will add the funds to the PPG by a grant amendment.

Section 3.3 Eligible Activities. Recipients may use PPGs to fund activities that are within the cumulative eligibilities of the grants listed in Section 3.2. Within these eligibilities, a PPG may fund multimedia regulatory and non-regulatory activities that could be difficult to fund under any individual categorical grant. EPA, in consultation with the States and Tribes, has developed a list of activities indicative of those it hopes PPGs will encourage. The list does not indicate pre-approval of activities and is not intended to be exhaustive. It merely illustrates the kind of activities which States, Tribes, the Agency and other stakeholders have identified as difficult to conduct with categorical grants and for which PPGs would be appropriate.

PPGs may support multi-media activities, such as:

- Pollution prevention-oriented multi-media rules, permitting, compliance assistance, inspections, enforcement, training, and facility planning (e.g., one industry/one rule, one stop emission reporting, permitting and compliance assistance),
- Non-regulatory pollution prevention technical assistance, technology development and diffusion, and partnerships with accountants, financiers, insurers, risk managers, urban planners, chemists, product designers and marketers, and other professions,
- Ecosystem, community, sector, watershed, or airshed environmental protection strategies (e.g., watershed targeted NPDES permits, empowerment zones),
- Support of Agency initiatives including Common Sense Initiative & Regulatory Reinvention (e.g., XL

strategy implementation, market based strategies, local community risk assessment, negotiated rulemaking, third-party auditing, self certification for compliance),

- Environmental justice,
- Children's health programs,
- Public outreach and involvement,
- Information clearinghouses,
- Environmental monitoring,
- Capacity building and environmental code development, and
- Integration of regulatory and non regulatory strategies.

Section 4. Preparing a PPG Application

Section 4.1—Components of a complete application. A complete application for a PPG must:

- (a) Meet the requirements in 40 CFR Part 31, Subpart B if the applicant is a State, interstate, or local agency, a Tribe or an Intertribal Consortium;
- (b) Specify the environmental programs and the amount of funds requested from each program to be combined in the Performance Partnership Grant;
- (c) Include a consolidated budget;
- (d) Include a work plan that addresses each program being combined in the grant and that meets the requirements of Section 4.3; and
- (e) Provide a rationale, commensurate with the extent of any programmatic flexibility (i.e., increased effort in some programs and decreased effort in others) indicated in the work plan, that explains the basis for the applicant's priorities, the expected environmental or other benefits to be achieved, and the anticipated impact on any environmental programs or program areas proposed for reduced effort.

The applicant and the Regional Administrator will negotiate regarding the information necessary to support the rationale for programmatic flexibility required in paragraph (f) of this section. The rationale may be supported by information from a variety of sources, including a Performance Partnership Agreement or comparable negotiated document, the evaluation report required in § 31.40, and other environmental and programmatic data sources. A State agency seeking programmatic flexibility is encouraged to include a description of efforts to involve the public in developing the State agency's priorities.

Section 4.2.—Time frame for submitting an application for EPA Action. An applicant should submit a complete application to EPA at least 60 days before the beginning of the proposed budget period.

Section 4.3—Work plans. (a) *Bases for negotiating work plans.* The work plan

is negotiated between the applicant and the Regional Administrator and reflects consideration of national, regional, and State environmental and programmatic needs and priorities.

(1) *Negotiation considerations.* In negotiating the work plan, the Regional Administrator and applicant will consider such factors as national program guidance; any regional supplemental guidance; goals, objectives, and priorities proposed by the applicant; other jointly identified needs or priorities; and the applicant's planning target.

(2) *National program guidance.* If an applicant proposes a work plan that differs significantly from the goals and objectives, priorities, or core performance/accountability measures in the national program guidance, the Regional Administrator must consult with the appropriate National Program Manager before agreeing to the work plan.

(3) *Use of existing guidance.* An applicant should base the grant application on the national and regional program guidance in place at the time the application is being prepared.

(b) *Work plan requirements.*

(1) The work plan is the basis for the management and evaluation of performance under the grant agreement.

(2) The work plan must correspond to the budget period of the PPG (e.g. a two-year PPG requires a two-year work plan.).

(3) An approvable work plan must specify:

(i) The work plan components to be funded under the grant;

(ii) The estimated work years and funding amounts for each work plan component;

(iii) The work plan commitments for each work plan component and a time frame for their accomplishment;

(iv) A performance evaluation process and reporting schedule in accordance with § 31.40 of this subpart; and

(v) The roles and responsibilities of the recipient and EPA in carrying out the work plan commitments.

(4) The work plan must be consistent with applicable federal statutes, regulations, circulars, executive orders, and delegation or authorization agreements.

(c) *Performance Partnership Agreement (PPA) or Tribal-EPA Agreement (TEA) as work plan.* An applicant may use a PPA or TEA as all or part of the work plan for an environmental program grant if the portions of the PPA or TEA that is to serve as the grant work plan:

(1) Is clearly identified and distinguished from other portions of the PPA/TEA; and

(2) Meets the requirements in Section 4.3(b).

Section 4.5 Explanation of Certain Elements of a Performance Partnership Agreement. The following explains in more detail some of the elements of the PPA/TEA not previously addressed:

(a) *Negotiated Environmental Priorities and Goals.* This part of the PPA/TEA is the product of negotiation between senior Regional officials and State or Tribal officials in positions to negotiate across grant programs, where this is appropriate. This part identifies the applicant's most significant environmental problems and the goals the applicant expects to achieve with the PPG. This strategic planning process reflects the applicant's priorities (as contained in any State or Tribal strategic plans or self-assessments), comparative risk studies or other risk-based approaches, and national priorities (enumerated in EPA's five-year strategic plan,⁴ the National Environmental Goals Project and National program priorities specified in EPA HQ/Regional Memorandums of Agreement). Major new strategic or program directions or investments/ disinvestments should be identified here.

(b) *EPA Roles and Responsibilities in Supporting State or Tribal Efforts.* To strengthen the federal partnership with States and Tribes, the PPA/TEA should describe how EPA will carry out its federal responsibilities and how it will support the State's or Tribe's environmental protection efforts. The negotiated agreement should include the work plan commitments (goals, performance measures, and/or program activities) the recipient expects to achieve under the PPG. The agreement should also set forth procedures (e.g., mid-year and end-of-year reviews, reporting requirements, joint activities) that EPA and the recipient will use for evaluating accomplishments, discussing progress, and making adjustments to meet milestones.

(c) *Core commitments.* All PPG work plans must include core work plan commitments (goals, core performance or accountability measures, program activities) derived from statutes, regulations, and standing legal agreements between EPA and States/ Tribes (e.g., Delegation Agreements). As appropriate and negotiated between EPA Regions and recipients, core work plan commitments and performance

measures should reflect National Program Manager/Regional guidance, EPA Headquarters-Regional MOA, Regional-State/Tribal MOA, and other EPA or State/Tribal policies. EPA should work with States and Tribes to balance the need to maintain core program requirements with the need to incorporate program flexibility and move toward program performance measures and environmental indicators. A PPA/TEA may also include measures for which data sources are not yet available if there is a commitment to develop reliable data sources.

(d) *Public Participation.* States and Tribes should continue to use their current public participation processes in conjunction with PPGs. EPA believes that it is critical to involve all stakeholders in the process of determining environmental priorities and goals, and therefore strongly encourages States and Tribes to involve stakeholders in identifying priority environmental problems. Recognizing the role and contribution of general purpose and special purpose local governments in the Nation's overall protection of the environment, EPA strongly encourages States to engage local jurisdictions which would be affected by a PPG. EPA also encourages recipients to share with stakeholders the results of their goals and activities defined in the PPA/TEA. Effective public participation will establish the foundation for greater program flexibility and the achievement of better environmental results.

(e) *PPG Evaluation.* The recipient should prepare a PPG annual report (as described in 40 CFR 31.40(b)) as well as satisfy any other reporting requirements required in the PPG agreement. In addition to evaluating performance based on PPG work plan commitments, the recipient should identify any problems, delays or conditions which materially affected the recipient's ability to meet the PPG objectives or commitments, any benefits that enabled the recipient to perform better than expected, and EPA's performance in helping the recipient to achieve work plan commitments. EPA and the States/ Tribes are also interested in knowing whether the work undertaken under the grant: (1) addressed the stated strategic priorities and goals; (2) achieved administrative cost savings; (3) where appropriate, improved environmental results (to the extent environmental performance measures were part of the PPG work plan commitments); and (4) improved EPA/grantee working relationships. After reviewing the annual report, the EPA Project Officer will provide evaluation findings to the

⁴ "The New Generation of Environmental Protection: EPA's Five-Year Strategic Plan," (EPA 200-B-94-002)

recipient and will include such findings in the official PPG file. Where required in NPM guidance, the EPA project officer will also provide copies to appropriate NPM personnel.

- **Evaluating the National PPG Program.** EPA will request the assistance of PPG recipients to evaluate the overall PPG process. Lessons learned from FY 1996–1999 experiences will be used to modify the program in subsequent years. The overall PPG grant process will be evaluated by EPA and program participants in order to understand how well it is being implemented as a national program. In addition to the criteria used to evaluate individual PPGs, national criteria will address whether PPGs: (1) led to greater State and Tribal flexibility; (2) resulted in States and Tribes adopting innovative environmental protection strategies; (3) changed polluter behavior; and (4) improved public health and the environment.

Section 5. EPA And Recipient Roles And Responsibilities

Section 5.1 EPA Headquarters. National Program Manager (NPM). The NPMs set national strategic direction and core program requirements and priorities for all environmental programs. NPM and Regional Guidance for State grant programs should be issued in a timely fashion to accommodate EPA-applicant negotiations of grant work plans. In any circumstance where a State or Tribe proposes activities that will lead it to significantly deviate from NPM Guidance or EPA policy, the Regional Administrator will consult with the appropriate NPM. In many cases, NPMs also allocate categorical grant funds to EPA's Regions based on established allocation criteria. EPA NPMs should provide Regions with grant allocations in a timely fashion to accommodate the development of grant applications and the negotiation of grant work plans.

Grants Administration Division (GAD). The GAD's responsibilities include: (1) sponsoring the PPG Delegation of authority; (2) reviewing and acting on deviation requests from EPA's grant regulations to implement PPGs; (3) sponsoring the proposed PPG regulations; (4) answering questions regarding the administration of PPGs; (5) interpreting 40 CFR Part 31 and Part 35, Subpart A and the draft 40 CFR Part 35, Subparts A and B.

Office of the Chief Financial Officer (OCFO). The OCFO's responsibilities include: (1) distributing categorical grant funds to the Regions; (2) approving requests by the Regions to reprogram categorical grant funds into

the PPG program element; (3) upon request of Appropriations Committees, provides periodic reports on the number of states participating in PPGs and the grant funds they are using; and (4) developing guidance for Regions to crosswalk State grant work plan budget and performance information to EPA's GPRA budget and reporting system.

Office of Congressional and Intergovernmental Relations (OCIR). OCIR responsibilities include: (1) providing guidance on EPA and State implementation of the National Environmental Performance Partnership System (NEPPS); (2) general interpretation and implementation of NEPPS policies; and (3) general national liaison with state and local governments and related organizations.

American Indian Environmental Office (AIEO). AIEO responsibilities include: (1) developing Guidance on EPA's partnerships with Tribes and Intertribal Consortia and the negotiation of Tribal-EPA Agreements (TEAs); (2) developing other crosscutting program guidance related to EPA's implementation of Tribal environmental programs; (3) general liaison with Tribal governments and related organizations; and (4) answering questions regarding PPG implementation in Indian Country.

Section 5.2 EPA Regions. Regional Administrator (RA). The RA is the designated approval and award official for PPGs with redelegation authority to the Deputy Regional Administrator or the Division Director or equivalent level. The RA, or a senior regional official(s) designated by the RA, should conduct the initial negotiations with applicants to establish environmental priorities and goals. The RA is also responsible for establishing many State grant allocations and a work plan negotiation process that will result in timely award of PPGs. The RAs should provide applicants with grant planning allocations in a timely fashion to accommodate the development of grant applications and the negotiation of grant work plans.

The RA should designate a single PPG Project Officer (PO) for each award. Because PPGs cross programs, the PO should coordinate negotiations with the recipient on behalf of all the relevant EPA programs. The RA may wish to designate a team of technical program staff to support the designated Project Officer, or set additional criteria for designating the PO. In any circumstance where an applicant proposes activities that will lead it to significantly deviate from NPM Guidance or EPA policy, the Regional Administrator will consult with the appropriate NPM.

Regional Program Managers. The managers of all programs included in the PPG will jointly be the program managers of the PPG, as will other appropriate Regional management officials. Regional Program Managers should (1) be consulted about or participate in negotiations with States and Tribes; (2) articulate Agency, NPM and Regional goals and priorities and work with recipients to assure they are incorporated into PPG work plans; (3) serve as the principal source for technical program assistance to recipients; and (4) participate in PPG program evaluation as defined by the PPG work plan.

Regional Project Officer. The PPG Project Officer (PO) will be the primary point of contact for grant recipients. The PO is responsible for coordinating programmatic and technical aspects of the PPA/TEA, PPG work plan, and the PPG agreement. All project officers must have successfully completed the EPA training course "Managing Your Financial Assistance Agreement—Project Officer Responsibilities." The PO should work closely with the Regional Indian Coordinator/Regional Indian Office for Tribal PPGs.

Regional Grants Management Office (GMO). Regional GMOs are responsible for carrying out all administrative functions associated with the receipt of the PPG application, processing the PPG award, and post-award administrative management of PPGs. (These functions are the same as those for the award and management of categorical grants.)

Regional Comptroller Offices. Regional Comptroller Offices are responsible for submitting approval requests to Headquarters Budget Division for Regional reprogramming of funds from categorical grant program resource codes to PPG distribution accounts and, upon approval, completing the reprogramming of the funds. Both the PPG award and obligation must include the State identifier code on transactions in IFMS.

Section 5.3 Recipients. Recipients may wish to designate a single point of contact for each PPG to serve as the counterpart to the EPA Project Officer. This individual should be responsible for coordinating all programmatic and technical aspects of the PPG as well as for all intra-State or intra-Tribal agreements. Recipients should identify these points of contact in their PPG application.

Section 6. Funding

Section 6.1 Project Period and Availability of Funds. In consultation with the Regional Administrator, the applicant may choose to submit either

annual or multi-year PPG work plans. Project periods may remain open to reflect the continuing nature of PPGs. The Regional Administrator and applicant may negotiate the length of the budget period for PPGs, subject to limitations in appropriations acts. The approved work plan must cover the entire PPG budget period.

Section 6.2 Award Amounts and Distribution of Funds. A state's or tribe's choice of PPGs or categorical grants will not affect its allocation of grant funds.

Section 6.3 Reprogramming of Funds. EPA's Budget Division will allocate grant funds to the Regions by objective. Regional Budget Officers will request the reprogramming of funds from program resource codes into a PPG distribution account. For FY 1999, the reprogramming of funds to implement PPGs is exempt from the \$500,000 Congressional reprogramming limitation. Reprogramming requests will be made only after the PPG project officer, EPA approval official and the Grants Management Office find the PPG application acceptable. Please refer to Office of the Comptroller Announcement No. 98—xx, "Accounting for Resources under the Government Performance and Results Act" for more details on budget execution and reporting for PPGs. The purpose statement/justification that should be included in the reprogramming request is:

Purpose: This action reprograms resources (\$) from existing categorical grants, air (\$), water (\$), etc. to support the implementation of the Performance Partnership Grant for the State/Tribe of

_____. This transfer is authorized by the/this decision memorandum dated _____ and signed by _____.

Person to contact: _____
Phone: _____ (including area code)

Section 6.4 Carryover And Unexpended Prior Year Funds. Funds recovered from an applicant's FY 1996–98 categorical grants will be available to fund PPGs awarded in FY 1999 and beyond, provided there is consistency with the appropriation and/or the underlying categorical program statutes and Comptroller Policy No. 88–09 "Disposition of Unobligated Balances of Assistance Awards." Carryover of unobligated balances will be allowed provided that the recipient uses the carryover award amount to support either ongoing programmatic goals, a multi-year PPG work plan, a special project falling within the PPG's eligibilities, or those activities contemplated for the next PPG award cycle's goals. As with all grant funds, the source of funds (e.g. CAA § 105, CWA § 106, PPG) determines the cost-share for unexpended prior-year funds. Therefore, unexpended prior-year PPG funds take on the final cost-share for the previous year's PPG, as described in Section 6.5.

If the PPG work plan commitments include activities that cannot be fully funded at the time of award (e.g. multi-year PPG work plans, competitive grants), additional funding can be added as it becomes available. The Regions may also forward-fund PPG awards.

Section 6.5 Cost-share Requirements. (a) An applicant for a Performance Partnership Grant must

provide a non-federal cost share that is not less than the sum of the minimum non-federal cost share required under each of the environmental programs that are combined in the Performance Partnership Grant. Cost share requirements for the individual environmental programs are described in §§ 35.200 to 35.260, and other relevant documents.

(b) When an environmental program included in the Performance Partnership Grant has both a matching and maintenance of effort requirement, the greater of the two amounts will be used to calculate the minimum cost share attributed to that environmental program.

(c) Example. A State or Tribe that applies for a PPG combining its Water-106, Nonpoint Source, UIC, UST, RCRA and Air-105 categorical grants. The portion of the federal categorical grant funding from each program designated by the recipient to be reprogrammed to the PPG is listed in the third column below. (This amount does not necessarily reflect all the Federal dollars available to the recipient for that specific categorical program. The recipient may choose to continue to receive some of the program's funding categorically.) The fourth column illustrates the minimum recipient cost share for each piece (based on the cost share requirements of the program that is the source of the funds). The fifth column notes the basis for the requirement. The total amount of federal money awarded in the PPG is the sum of the contributed portions dollars in the third column. The minimum recipient PPG cost share is the sum of the minimum recipient cost shares for each of the contributed portions shown in the fourth column.

Funding source share	PPG total	Federal share	Recipient cost share	Basis of cost
Water-106	1,239,064	1,087,995	⁵ 151,069	MOE.
Nonpoint Source	924,333	554,600	⁶ 369,733	MOE or 40% match.
UIC	78,796	59,097	19,699	25% match.
UST	216,667	162,500	54,167	25% match.
RCRA	465,989	349,492	116,497	25% match.
Air-105	2,290,230	1,374,198	^{6,7} 916,132	
			MOE or 40% match.	
PPG	5,215,079	3,587,882	1,627,297	PPG guidance

The minimum composite cost share for the PPG in this example is \$1,627,297, which is 31.2% of the PPG total of \$5,215,079. The percentage is based on the ratio between the total dollar value (Federal and non-Federal) of each program, activity, etc., included in the PPG(s) and the dollar value of its respective cost sharing requirement. EPA uses this percentage to determine the recipient's share of each dollar expended for the PPG(s).

If a recipient chooses to split federal categorical funding between a PPG and a categorical grant, the minimum required cost share for the PPG will be directly related to the portion of the categorical grant funds moving to the PPG. The following is an example of how this would apply to the UST funding cited above. If half of the funding was maintained in a categorical grant (\$81,250 went to both the PPG and the categorical grant), the minimum cost share for the PPG would be half of \$54,167 or \$27,083.50.

If the cost share requirement for a categorical grant is a minimum percentage of the total grant program (combined federal and recipient contributions), the minimum allowable recipient contribution can be calculated using a two step process. Following is an example of how this would apply to the RCRA funding above:

(1) Divide the available federal funding by the maximum federal share (\$349,492 divided by 75%) The result is the minimum total program amount (federal and State shares combined) for the grant (\$465,989). (2) Subtract the federal contribution from the minimum total program amount to determine the minimum required recipient contribution. (\$465,989 - \$349,492 = \$116,497. \$116,497 represents 25% of the total.)

If a recipient decides to withdraw an environmental program with an MOE requirement from the PPG and seek funding for the environmental program under a categorical grant, the MOE requirement for the new categorical grant will be no less than the MOE requirement in the fiscal year immediately preceding the entry of the environmental program into the PPG. EPA may approve an adjustment to the MOE

requirement for the new categorical grant if EPA determines that there are exceptional circumstances justifying such an adjustment. This requirement is a condition of receiving a PPG and, therefore, must be included in all PPG grant agreements.

Section 7. Administrative Information

Section 7.1 Delegation of Authority. The Regional Administrator is the designated approval and award official for PPGs with approval redelegation authority to the Deputy Regional Administrator or the Division Director level. References: Delegation #1-14 -Assistance Agreements; Delegation #1-101 -Performance Partnership Grants.

Section 7.2 Grant Budget Information. Applicants may merge funding for all PPG programs and activities into a single budget for accounting and reporting purposes. This budget must display a breakdown of costs by object class categories on Standard Form 424B. For applicants proposing multi-year PPG work plan commitments, the applicant need only reflect object class costs for the initial year. However, the budget information must accurately reflect the grant agreement and be able to be tracked to support the program outcomes and outputs cited in that grant agreement. The Regional Administrator may also require the applicant to submit a level of supplemental budget detail necessary to allow for adequate determination of the allowability, allocability, necessity, and reasonableness of each element of program costs.

Section 7.3 Certifications. States/Tribes may submit one set of grant certifications (i.e. a bundled certification) for anti-lobbying, debarment/suspension, SF424B—assurances and procurement with the PPG application.

Section 7.4 Standard Terms And Conditions. EPA will add standard terms and conditions to the PPG agreement as required by the authorities set forth in sections 2.1 and 2.2. The PPG agreement must cite the PPG work plan commitments as terms and conditions of the agreement. The Region may add any additional State or Tribal specific terms and conditions deemed appropriate and necessary on a case by case basis.

Section 7.5 Grants Information And Control System (GICS) Data. The following are the GICS codes for PPGs.

—Program Code: BG
—Description: Performance Partnership Grants
—Statutory Authority Code: 141
—Text: Appropriations Act of 1996 (PL-104-134)
—Regulatory Code: A4

—CFDA number: 66.605

Section 8. Post-Award Requirements

Section 8.1 Pre-award Costs.

Consistent with 40 CFR § 35.141 and subject to the availability of funds, EPA will reimburse applicants for allowable costs incurred from the beginning of the approved budget period.

Section 8.2 Financial Management And Reporting. Recipients. PPG recipients will continue to follow the regulations for Standards for Financial Management Systems contained in 40 CFR Part 31.20. Fiscal control and accounting procedures of the recipient applicant must be sufficient to permit preparation of Financial Status Reports for PPG awards.

PPG recipients must maintain accounting and financial records which adequately identify the source (i.e., Federal funds and match) and application of funds provided for PPG activities. These records should contain relevant information such as obligations, unobligated balances, outlays, expenditures and program income.

Recipients will track PPG funds to the total effort or costs incurred for the PPG work. EPA will reimburse the recipient for the federal share of the costs from the PPG budgetary account. PPG costs will not be tracked to each of the original individual categorical source(s) of grant funding.

Government Performance and Results Act: EPA will use budget information that States and tribes provide in PPG grant applications as a basis for linking the Agency's expenditures to with EPA's GPRA budget structure. EPA's Regional offices, with consultation with recipients, will be responsible for cross-walking PPG application budget data into the EPA's GPRA goals, objectives, and subjective architecture. If a PPG work plan is subsequently amended, the Region will consult with the recipient to estimate the budget change associated with the amendment. Please refer to Office of the Comptroller Policy Announcement No. 98—xx, "Accounting for Resources under the Government Performance and Results Act" for guidance on approach to use for the cross-walk to ensure that the results achieved by States with EPA funds are captured in the Agency's Annual Performance Reports.

Section 8.3 Payment. To reduce paperwork and facilitate payment, EPA will encourage PPG recipients to receive electronic payments via the Automated Clearinghouse (ACH) System. Inability to qualify for an ACH method of payment will not preclude an otherwise eligible recipient from receiving a PPG

⁵ The Water 106 program has no match requirement for states. However, it has a MOE requirement based on recurrent expenditures in the FY year ending (1) June 30, 1971 or (2) October 1, 1977, if the State is expending funds awarded in any fiscal year for construction grants management under section 205(g). This requirement obligates a State to spend at least the base year amount of money each year without regard to the amount of the federal award. EPA will continue to use this MOE requirement amount to calculate recipient minimum cost share when the Water 106 program in part of a PPG. For Tribes, there is a 5% match, but no MOE.

⁶ The Air 105 and the Nonpoint Source programs have both a match and a MOE requirement. The greater of the MOE or the match requirements of these two programs will be used to calculate the minimum cost share requirement for a PPG, when the programs are part of a PPG.

⁷ Revenue generated by the collection of Clean air Act Title V fees can only be used for the Title V Operating Permit program and cannot be used to meet cost share requirements for any grants, including PPGs as well as section 105 grants.

award. Beginning January 1, 1999, all payments to grant recipients will be made electronically, although recipients who do not have a formal ACH established may still request payment using Standard Form 270.

Section 8.4 Allowable Costs. OMB Circular A-87 (cost principles) and EPA regulations in 40 CFR Part 31 will apply to PPGs to determine the reasonableness, allowability, necessity and allocability of costs.

Section 8.5 Additions/Deletions of Programs From Existing PPGs. States/Tribes may elect, with Regional concurrence, which categorical program or project grants will be included in its established PPG award(s). In general, once an annual PPG is awarded for a given fiscal year, EPA will authorize no programmatic deletions until the beginning of the next fiscal year. Once PPG program commitments are approved and funds have been reprogrammed by EPA, the funds lose their categorical identity and cannot be pulled out by an applicant.

Funds for grants approved in the middle of the fiscal year and appropriate competitive grants may be added to the PPG subject to PO approval. The PO and recipient will renegotiate the approved environmental performance agreement goals and revise the PPG program commitments and budgets. EPA will reprogram the funds to be added to a PPG. The recipient must submit a formal amendment to add funding to the PPG. EPA will process

the amendments as expeditiously as possible, while maintaining fiduciary responsibility, to accommodate the recipient.

If a recipient chooses to add a categorical grant program to a two-year PPG, the match requirements of that program will then be calculated as part of the overall PPG composite match (see Section 6.5).

If the recipient drops a program at the end of a cycle, based on the recipient's decision to redirect its efforts and with the prior approval of the PPG PO, the PPG recipient shall be reimbursed for allowable costs incurred during the PPG project period.

If a recipient withdraws an environmental program with an MOE requirement from the PPG at the end of the award cycle and seeks funding for the program under a categorical grant, the MOE requirement for the new categorical grant will be no less than the MOE requirement in the fiscal year immediately preceding the entry of the environmental program into the PPG. EPA may approve an adjustment to the MOE requirement for the new categorical grant if EPA determines that there are exceptional circumstances justifying such an adjustment (see Section 6.5). This requirement is a condition of receiving a PPG and, therefore, must be included in all PPG grant agreements.

Section 8.5 Enforcement. If a recipient materially fails to comply with a term or condition in the PPG award,

EPA may impose sanctions in accordance with 40 CFR § 31.43, including the conversion of a PPG back to individual categorical grants during the next award cycle.

Section 8.6 Disputes. The dispute process set forth in 40 CFR § 31.70 will apply to PPGs. Disagreements between the recipient and EPA regarding PPG applications, including PPG work plan commitments, priorities and/or related performance indicators, or PPGs themselves, including disallowances or enforcement actions, are to be resolved at the lowest level possible, i.e., the project officer.

The Regional Administrator designates the Dispute Decision Official. Because of the multi-media nature of the PPG program, it is suggested that the Regional Administrator select a multi-media Division Director in Regions where applicable, or the Region's Senior Resource Official/Assistant Regional Administrator as the Disputes Decision Official to resolve disputes arising under the PPG assistance agreements.

The Regional Administrator will continue to be the final level of appeal at the Regional level. The Deputy Administrator or his/her designee will serve as the Headquarters Disputes Review Official to resolve disputes arising under PPG assistance agreements appealed to Headquarters.

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