

## Environmental Protection Agency

## § 35.145

of sources, including a Performance Partnership Agreement or comparable negotiated document, the evaluation report required in §35.125, and other environmental and programmatic data sources.

(c) 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.

### § 35.138 Competitive grants.

(a) Some environmental program grants are awarded through a competitive process. An applicant and the Regional Administrator may agree to add funds available for a competitive grant to a Performance Partnership Grant. If this is done, the work plan commitments that would have been included in the competitive grant must be included in the Performance Partnership Grant work plan. After the funds have been added to the Performance Partnership Grant, the recipient does not need to account for these funds in accordance with the funds' original environmental program source.

(b) If the projected completion date for competitive grant work plan commitments added to a Performance Partnership Grant is after the end of the Performance Partnership Grant funding period, the Regional Administrator and the applicant will agree in writing as to how the work plan commitments will be carried over into future work plans.

AIR POLLUTION CONTROL (SECTION 105)

### § 35.140 Purpose.

(a) *Purpose of section.* Sections 35.140 through 35.148 govern Air Pollution Control Grants to State, local, interstate, or intermunicipal air pollution control agencies (as defined in section 302(b) of the Clean Air Act) authorized under section 105 of the Act.

(b) *Purpose of program.* Air Pollution Control Grants are awarded to administer programs that prevent and control air pollution or implement national ambient air quality standards.

(c) *Program regulations.* Refer to 40 CFR parts 49, 50, 51, 52, 58, 60, 61, 62, and 81 for associated program regulations.

### § 35.141 Definitions.

In addition to the definitions in §35.102, the following definitions apply to the Clean Air Act's section 105 grant program:

*Implementing* means any activity related to planning, developing, establishing, carrying-out, improving, or maintaining programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.

*Nonrecurrent* expenditures are those expenditures which are shown by the recipient to be of a nonrepetitive, unusual, or singular nature that would not reasonably be expected to recur in the foreseeable future. Costs categorized as nonrecurrent must be approved in the grant agreement or an amendment thereto.

*Recurrent expenditures* are those expenses associated with the activities of a continuing environmental program. All expenditures are considered recurrent unless justified by the applicant as nonrecurrent and approved as such in the grant award or an amendment thereto.

### § 35.143 Allotment.

(a) The Administrator allots air pollution control funds under section 105 of the Clean Air Act based on a number of factors, including:

- (1) Population;
- (2) The extent of actual or potential air pollution problems; and
- (3) The financial need of each agency.

(b) The Regional Administrator shall allot to a State not less than one-half of one percent nor more than 10 percent of the annual section 105 grant appropriation.

(c) The Administrator may award funds on a competitive basis.

### § 35.145 Maximum federal share.

(a) The Regional Administrator may provide air pollution control agencies, as defined in section 302(b) of the Clean Air Act, up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution or implementing national primary and secondary ambient air quality standards.