

notifications, reports and records are required, in general, of all sources subject to NSPS.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR chapter 15. The Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on 06/11/96 (61 FR 29555).

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 62 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Synthetic organic chemical manufacturers.

**Estimated No. of Respondents:** 203.

**Frequency of Collection:** semiannual.

**Estimated Total Annual Burden on Respondents:** 20,440 hours.

**Estimated Total Annualized Cost Burden:** \$102,200.

**Title:** NESHAAP for PCE Dry Cleaning Facilities (Subpart M) (OMB Control No. 2060-0234; EPA ICR No. 1415.03). This is a request for renewal of a currently approved information collection request.

**Abstract:** These standards apply to owners or operators of dry cleaning facilities that use perchloroethylene (PCE). Owners or operators of such facilities must provide EPA, or the delegated State regulatory authority, with the one-time notifications and reports. The owners or operators must also perform weekly monitoring (or biweekly for the smallest facilities) and must keep records for 5 years. The notification and reports enable EPA or the delegated State regulatory authority to determine whether the appropriate control technology is installed and properly operated and maintained, and to schedule inspections and/or compliance assistance activities. The

responses to this information collection are mandatory under Clean Air Act section 112 and 40 CFR Part 63, Subpart M. The responses are not anticipated to be kept confidential due to the nature of the information collected; however, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR Part 2.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 26, 1996 (61 FR 13172). No comments were received.

**Burden Statement:** The annual public reporting burden for this collection of information is estimated to average 9 hours per response for new dry cleaning facilities and zero hours per response for existing dry cleaning facilities. The public recordkeeping burden is estimated to average 48 hours per respondent for a total 1,192,879 hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents:** Dry cleaning facilities.

**Estimated Number of Respondents:** 25,090.

**Frequency of Response:** weekly or biweekly.

**Estimated Total Annual Hour Burden:** 1,212,055 hours.

**Estimated Total Annualized Cost Burden:** \$0.

Send comments on the Agency's need for the information in any of these collections, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the

following addresses. Please refer to the appropriate EPA ICR Number and OMB Control Number in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and  
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

August 13, 1996.

David Schwarz,

*Acting Director, Regulatory Information Division.*

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[FRL-5556-1]

### Performance Partnership Grants for State and Tribal Environmental Programs: 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 December 1995. The revisions reflect the change in year and the existence of Congressional authority to award PPGs. A few other minor clarifications were also made. This revised guidance will serve as the operating guidance for States and Tribes interested in applying for PPGs.

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.

#### FOR FURTHER INFORMATION CONTACT:

Juanita Smith, Office of Water (4102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Telephone: (202) 260-6226, FAX: (202) 260-5711, or Jack Bowles, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, Telephone: (303) 312-6315, FAX: (303) 312-6067.

**SUPPLEMENTARY INFORMATION:** PPGs are a powerful funding tool that EPA is offering to eligible States and Tribes. A PPG is a multi-program grant made to a State or Tribal agency from funds otherwise available for categorical grant programs. A State or Tribe can combine funds from 2 or more of 16 eligible grant

programs into 1 or more PPGs. Recipients may then use PPGs to fund activities that are within the cumulative eligibilities of the 16 eligible grant programs.

EPA encourages States and Tribes to take advantage of PPGs. PPGs enable States and Tribes to better direct their funding toward their most critical environmental problems and address multi-media high priority strategies such as community-based environmental protection, pollution prevention, and environmental justice. 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.

Additional contacts for information on PPGs are:

#### Headquarters:

Bruce Feldman, Chief, Grants Policy, Information and Training or Ellen Haffa, Grants Administration Division, U.S. EPA (3901F), 401 M Street, SW, Washington, DC 20460, (202) 260-2523.

#### Region 1:

Robert Goetzl, Chief, Strategic Planning Office, CSP, U.S. EPA—Region I, John F. Kennedy Federal Building, One Congress Street, Boston, Massachusetts 02203, (617) 565-3378.

#### Region 2:

Tierre Jeanne, Chief, Grants and Contracts Management Branch, U.S. EPA—Region II, 290 Broadway, New York, NY 10007-1866, (212) 637-3402.

Dennis Santella, U.S. EPA—Region II, 290 Broadway, Strategic Planning and Multi-media Programs Branch, New York, NY 10007-1866, (212) 637-3746.

#### Region 3:

Mary Zielinski, Robert Picollo, Grants and Audit Management Branch, U.S. EPA—Region III, 841 Chestnut Street, Philadelphia, PA 19107, (215) 566-5415 (Mary Zielinski), (215) 566-5405 (Robert Picollo).

#### Region 4:

Michelle Glenn, U.S. EPA—Region IV, 345 Courtland Street, Atlanta, GA 30365, (404) 347-7109 ext. 6878.

#### Region 5:

Tom Jackson, Acquisition and Assistance Branch (MC-10J), U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, Illinois 60604, (312) 886-7523.

#### Region 6:

Brenda Durden, Chief, Program Planning and Grants Branch, U.S.

EPA—Region VI, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-6510.

Joe Massey, Grants Management Office, U.S. EPA—Region VI, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-7408.

#### Region 7:

Carol Rompage, Grants Management Officer, U.S. EPA—Region VII, 726 Minnesota Avenue, Kansas City, KS 66101.

#### Region 8:

Tony Medrano, Director, Office of Grants, Audit and Procurement, U.S. EPA—Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, (303) 312-6336.

Jack Bowles, U.S. EPA—Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, (303) 312-6315.

#### Region 9:

Melinda Taplin, Chief, Grants Management Section (P-4-4), U.S. EPA—Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1693.

#### Region 10:

Denise Baker, U.S. EPA—Region X, 1200 6th Avenue, Seattle, WA 98101, (206) 553-8087.

Dated: August 13, 1996.

Dana Minerva,

*Deputy Assistant Administrator, Office of Water.*

Kerrigan Clough,

*Assistant Regional Administrator, Office of Pollution Prevention, State and Tribal Assistance, Region VIII.*

#### 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 commitments.

- 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, workplans, 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).

- Authority applies to funds from sixteen 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) 1997 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.

- 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 period after enactment of statutory authority for the PPG program (April 26, 1996) and may convert FY 1997 categorical grants to a PPG during the year.

- PPG program 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 program elements. PPG program commitments must have core program elements and performance measures, as defined by appropriate environmental statutes, regulations and EPA or State policy. PPG program commitments may be contained in categorical workplans, in an Environmental Performance Agreement

(EnPA) or in a 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 sixteen specified EPA grant authorities.
- FY 1995 and prior year federal grant funds must be expended as categorical grants and may not be carried over into PPGs, because authority for PPGs begins with FY 1996 federal funds.
- EPA's policy and goal is that States and Tribes should continue to spend, in effect, 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 in the EnPA/TEA, the total resources in 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 workplans or enter the National Environmental Performance Partnership System (NEPPS). Below are the four major categories of PPGs defined in this guidance (applicants may suggest other options):
  - Administrative flexibility and savings only (with categorical workplans);
  - Administrative and programmatic flexibility (with categorical workplans and a supplemental EnPA or TEA that explains the rationale and benefits of the PPG);
  - Administrative and programmatic flexibility; single/multimedia EnPA/

TEA in place of categorical workplans; and

- Any of the above PPG options and entering NEPPS.

#### *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, 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 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. States and Tribes may apply for these grants for any period after enactment of statutory authority for the PPG program (April 26, 1996).

This Guidance provides direction for: (1) States and Tribes that apply for and receive PPGs; (2) States applying for PPGs and entering the National Environmental Performance Partnership System (NEPPS); and (3) EPA Regions that approve and award PPGs. This document remains in effect until superseded by statute, federal regulation, or amended guidance. EPA expects to develop and issue regulations governing PPGs during FY 1996/1997. The Agency expects extensive stakeholder involvement in the development of the regulation.

#### *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 stakeholders<sup>1</sup> 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 program commitments. 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

<sup>1</sup> 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.

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. Performance measures, to be developed jointly by EPA and each State or Tribe, will gauge progress toward agreed upon goals (see Section 1.7). 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.

**Administrative Savings.** EPA, States, and Tribes expect PPGs to reduce administrative burdens and costs by reducing the overall number of grant applications, workplans, 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 Summary of State and Tribal Options*

The PPG program is designed to provide maximum flexibility to States and Tribes. Potential recipients may apply for a PPG to replace all sixteen eligible categorical grants, some of the sixteen (e.g., water media PPG), or portions of some of them (e.g., an enforcement PPG). As summarized below and explained in Section 4, application options are streamlined and tailored to the specific goals of the PPG. States and Tribes may apply for a PPG using any of the following four options. EPA will also work with States and Tribes on any other options they would like to propose.

I. Administrative flexibility and savings based on categorical workplans (see Section 4.3).

II. Administrative and programmatic flexibility with an Environmental Performance Agreement (EnPA)/Tribal Environmental Agreement (TEA) that includes categorical workplans. In this case, the categorical workplans still establish most of the PPG program commitments. The EnPA/TEA also explains the rationale for the PPG and identifies any additional PPG program commitments (see Section 4.4).

III. Administrative and Programmatic flexibility based on an EnPA/TEA that replaces categorical workplans. In this case, the EnPA/TEA establishes all of the PPG program commitments (see Section 4.5).

IV. Application for a PPG under any of the three previous options and entering the National Environmental Performance Partnership System (NEPPS). Currently, this option is available for States, although interested Tribes could explore applicability with their Regional Administrator (see Section 4.6).

#### *Section 1.5 Relationship to Oversight Reform and the National Environmental Performance Partnership System*

On May 17, 1995, State and 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 partnership 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 Environmental Performance Agreement (EnPA) is a document that is common to both PPGs and NEPPS. For States doing both, the EnPA will allow the processes and documentation to be integrated (see Section 4.6 for more details).

#### *Section 1.6 Relationship to 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 will substitute for the State EnPAs. In order for the TEAs to also compare with the EnPAs as commitment documents (PPG Options II-IV) where Tribes/States are shifting funds, Tribes wanting to enter a PPG will have to include a specific

section on the anticipated PPG funds and program 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 EnPA, 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 EnPAs are required for States.

#### *Section 1.7 PPG Accountability and Performance Measures*

All PPGs will be required to contain a legally binding set of program commitments. These program commitments will be the primary basis for evaluating the success of a PPG. Some program 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, program 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 program commitments are the legal basis for the expenditure of federal grant funds and the recipient's matching requirement" (see Section 1.8).

EPA will continue to work with States and Tribes to define the elements of program commitments, including national environmental goals and performance measures.

As EPA and States/Tribes negotiate program commitments under PPGs, they are encouraged to use performance measures that measure program and environmental outcomes and outputs more often than they now do. Performance measures that are PPG program commitments must be quantifiable, measurable, and verifiable. Specifically, EPA encourages all States and Tribes to adopt outcome and output-oriented performance measures that track program performance, environmental conditions and trends, and business environmental performance.

*State/Tribal Program Performance measures* suggest how effectively or

reliably a State/Tribal Program is achieving its objectives. Measures may be outcome or output oriented. They may include, where appropriate and necessary, activity measures traditionally used to evaluate environmental programs.

*Business Environmental Performance measures* assess environmental behavior in the private sector.

*Environmental Indicators* are measures of actual changes in air and water quality, land use, and changes in living resources and human health.

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,"<sup>2</sup> the National Environmental Goals Project, and EPA National Program performance measures (developed under the NEPPS initiative). Examples of some potential performance measures are included in Attachment 1. 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. This report provides a preliminary list of national environmental indicators that may be helpful to States, Tribes and EPA looking for good ideas about available environmental indicators.<sup>3</sup>

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.

<sup>2</sup> EPA 200-B-94-002.

<sup>3</sup> To obtain a copy of the document, contact EPA's Office of Policy, Planning and Evaluation, at (202) 260-4909, or Florida State University at (904) 921-0423.

#### *Section 1.8 Definitions*

*Agency*—United States Environmental Protection Agency (EPA).

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

*Environmental Performance Agreement (EnPA)*—Broad strategic document containing negotiated environmental priorities and goals. The EnPA may also include specific program commitments that are incorporated by reference in the Performance Partnership Grant Agreement. A State may use this document as a means to implement NEPPS, even if the State does not apply for a PPG.

*National Environmental Performance Partnership System (NEPPS)*—A new approach to developing and implementing the State-EPA oversight relationship 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) environmental performance 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.

*Oversight Reform*—Same as National Environmental Performance Partnership System (see above).

*Performance Partnership Grant (PPG)*—A PPG is a single grant made to a State or Tribe from grant funds allocated and otherwise available for more than one existing categorical grant program. PPGs are voluntary and will provide States and Tribes with the option to combine funds from two or more of their categorical grants into one or more PPGs. Recipients must be eligible to receive the categorical grants included in a PPG. However, the unique administrative requirements and limitations set forth in 40 CFR Part 35 Subpart A for each categorical program will not apply after the funding is approved for a PPG. Only those requirements that pertain to PPGs will be applicable.

*Performance Partnership Grant Agreement*—The legal instrument by which EPA will transfer money, property, services or anything of value to an eligible PPG grant recipient. The agreement will specify:

- Budget and project periods,
- Federal share of eligible program costs,

- Combined budget,
- PPG program commitments (see definition below), and
- Any terms and conditions.

Performance Partnership Grant Program Commitments—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 program commitments are the legal basis for the expenditure of federal grant funds and the recipient's matching requirement. This guidance will commonly refer to PPG program commitments as consisting of goals, objectives, performance measures and program activities. A set of core program commitments must be included in the PPG Program Commitments. These core program commitments are based on requirements in statutes, regulations, standing legal agreements between EPA and States/Tribes (e.g. Delegation Agreements), and National Program Manager/Regional guidance.

Program Flexibility—Reduction of effort or elimination of a program element in order to invest in another media-specific or multimedia program element.

Tribal Environmental Agreement (TEA)—A planning tool (signed by the EPA Regional Administrator and the Tribal leadership) which clearly identifies the Tribe's environmental objectives, expected outcomes and resource needs, as well as 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.

## 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.

### 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, and Federally recognized Indian Tribes 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 agencies other than environmental agencies (e.g., agricultural and health 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.

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 sixteen grants identified in EPA's FY 1996 State and Tribal Assistance Grants (STAG) appropriation are eligible to be combined into a PPG in FY 1996:

1. Air pollution control (CAA section 105),
2. Water pollution control (CWA section 106),
3. Nonpoint source management (CWA section 319),
4. Water quality cooperative agreements (CWA section 104(b)(3)),
5. Wetlands program development (CWA section 104(b)(3)),
6. Public water system supervision (SDWA sections 1443(a) and 1451(a)(3)),
7. Underground water source protection (SDWA section 1443(b)),
8. Hazardous waste management (Solid Waste Disposal Act section 3011(a)),
9. Underground storage tank (Solid Waste Disposal Act section 2007(f)(2)),
10. Radon assessment and mitigation (TSCA section 306),
11. Lead-based paint activities (TSCA section 404(g)),
12. Toxics compliance and monitoring (TSCA section 28),
13. Pollution prevention incentives for States (PPA section 6605),
14. Pesticide enforcement (FIFRA section 23(a)(1)),
15. Pesticide applicator certification and training/pesticide program (FIFRA section 23(a)(2)), and
16. 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 adverse effects to 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 awarded the competitive grant, and must identify specific output measures as a condition for adding the funds to a PPG. A State or Tribe may include these grant output measures in its EnPA/TEA. 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.

Activities that PPGs may support, but are not limited to:

- 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,

- Public outreach and involvement,
- Information clearinghouses,
- Environmental monitoring,
- Capacity building and environmental code development, and
- Integration of regulatory and non regulatory strategies.

### Section 4. PPG Application Options

#### Section 4.1 Introduction

This chapter presents the application options for States and Tribes applying for a PPG(s). For program grants with budget periods beginning 10/1/96, applications are due by 8/1/96. Reimbursement for pre-award costs from 10/1/96 until the date of award are only available if EPA has received the application by 9/30/96. Applicants choosing to apply only for categorical grants for FY 1997 will continue to follow the current process and schedule for categorical grants.

#### Section 4.2 PPG Options

For FY 1997, EPA is providing PPG applicants with the following four application options:

- I. Administrative flexibility and savings based on categorical workplans (see Section 4.3).
- II. Administrative and programmatic flexibility with an Environmental Performance Agreement (EnPA)/Tribal Environmental Agreement (TEA) that includes categorical workplans. In this case, the categorical workplans still establish most of the PPG program commitments. The EnPA/TEA also explains the rationale for the PPG and identifies any additional PPG program commitments (see Section 4.4).
- III. Administrative and Programmatic flexibility based on an EnPA/TEA that replaces categorical workplans. In this case, the EnPA/TEA establishes all of the PPG program commitments (see Section 4.5).
- IV. Application for a PPG under any of the three previous options and entering the National Environmental Performance Partnership System (NEPPS). Currently, this option is available for States, although interested Tribes could explore applicability with their Regional Administrator (see Section 4.6).

In addition to these options, EPA will continue working with States and Tribes to identify other application options for implementing PPGs.

PPG applicants, like all State, local, and Tribal federal grant applicants, will continue to use the "Application for Federal Assistance: State and Local Non-Construction Programs" (Standard Form 424), including the required supporting documents. Submittal of this

application by a Governor or other appropriate State or Tribal official will serve as the State's or Tribe's official request for a PPG.

### Section 4.3 Option I. Applicants Seeking a PPG for Administrative Flexibility and Savings Based on Categorical Workplans

When an applicant has completed negotiation of its categorical grant workplans, the PPG program commitments will consist of those grant workplans. The PPG application should contain:

- First page of Standard Form 424—"Application for Federal Assistance,"
- Consolidated budget (separate categorical budgets totaled for funding in the PPG),
- A list of the grant programs (or portions thereof) from which funds will be reprogrammed to a PPG(s),
- A narrative statement explaining the rationale and expected benefits of the PPG (i.e., improved performance of the combined grant, administrative savings, reinvestments), and
- Categorical workplans proposed for inclusion in the PPG (same workplans submitted with categorical applications can be used).

### Section 4.4 Option II. Applicants Seeking a PPG for Administrative and Programmatic Flexibility, Based on an EnPA/TEA That Includes Categorical Workplans

This section applies to applicants who will use PPGs to implement a new strategic direction, programmatic flexibility, or innovative environmental protection strategies, not already explained in categorical grant workplans. In this case, an EnPA/TEA will contain: the goals and rationale for the PPG; the categorical workplans that establish most of the PPG program commitments; and any additional PPG program commitments not contained in categorical workplans. The PPG Agreement would reference the categorical workplans and any other sections of the EnPA/TEA that contain PPG program commitments. The intent is to develop the EnPA in two phases. In the first phase, EPA and the applicant negotiate and agree on environmental priorities and goals. In the second phase, EPA and the applicant negotiate PPG program commitments to achieve these goals.

The PPG application should contain the following:

- First Page of Standard Form 424—"Application for Federal Assistance,"
- Single budget supporting the PPG, and
- An EnPA/TEA that includes:



- A list of grants (or portions thereof) from which funds will be reprogrammed to a PPG(s),
- Negotiated environmental priorities and goals,
- A narrative statement explaining the rationale and expected benefits (i.e., improved performance of the combined grant, administrative savings, disinvestments, reinvestments),
- Identification of EPA Roles and Responsibilities,
- PPG program commitments consisting of:
  - Categorical workplans proposed for inclusion in the PPG (workplans submitted with categorical applications can be used), and
  - Any additional multimedia or strategic PPG program commitments and performance measures,
  - A description of public participation efforts (optional), and
  - Evaluation criteria and procedure.

**Section 4.5 Option III. Administrative and Programmatic Flexibility Based on an EnPA/TEA That Replaces Categorical Workplans**

This section describes the elements of a PPG application based entirely on an EnPA/TEA that establishes PPG program commitments. The EnPA/TEA replaces the categorical workplans. The PPG Agreement would reference the sections of the EnPA/TEA that are PPG program commitments. In this case, a State or Tribe could: (1) Continue to make media or program the primary basis for organizing its PPG program commitments; or (2) organize PPG program commitments on some other primary basis (e.g., community-based environmental protection).

The PPG application should contain the following:

- First Page of Standard Form 424—"Application for Federal Assistance,"
- Single budget supporting the PPG, and
- An EnPA/TEA that includes:
  - A list of grants (or portions thereof) from which funds will be reprogrammed to a PPG(s),
  - Negotiated environmental priorities and goals,
  - A narrative statement explaining the rationale and expected benefits (i.e., improved performance of the combined grant, administrative savings, disinvestments, reinvestments),
  - Identification of EPA roles and responsibilities,
  - PPG program commitments that include:
    - Core program commitments, and
    - Multimedia and additional media-specific program commitments,
    - A description of Public Participation efforts (optional), and

- Evaluation.

The following explains in more detail some of the elements of the EnPA/TEA not previously addressed:

- *Negotiated Environmental Priorities and Goals.* This part of the EnPA/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<sup>4</sup>, 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.

- *EPA Roles and Responsibilities in Supporting State or Tribal Efforts.* To strengthen the federal partnership with States and Tribes, the EnPA/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 program 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.

- *Core Program Commitments.* The EnPA/TEA must include core program commitments (goals, performance 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 program 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. An EnPA/TEA may also include measures for which data sources are not yet available if there is a commitment to develop reliable data sources.

- *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 EnPA/TEA. Effective public participation will establish the foundation for greater program flexibility and the achievement of better environmental results.

- *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 program commitments, the recipient should identify any problems, delays or conditions which materially affected the recipient's ability to meet the PPG objectives, and any benefits that enabled the recipient to perform better than expected. 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 program commitments); and (4) improved EPA/grantee working relationships.<sup>5</sup> After reviewing the annual report, the EPA Project Officer will provide evaluation findings to the recipient and will include such findings in the official PPG file.

<sup>5</sup>The FY 1995 grant flexibility demonstration projects in New Hampshire, Massachusetts and North Dakota provide some useful lessons in evaluating combined grants. Updates on these projects are available from Regions I and VIII.

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



• *Evaluating the National PPG Program.* EPA will request the assistance of PPG recipients to evaluate the overall PPG process. Lessons learned from the FY 1996/1997 experience 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 4.6 Applicants Seeking a PPG and Entering the National Environmental Performance Partnership System (NEPPS) in FY 1997.*<sup>6</sup>

This section applies to States interested in applying for a PPG and entering NEPPS. A State may choose to enter NEPPS in combination with any of the PPG options described above. In addition to providing the information

for PPGs described in either Sections 4.3, 4.4, or 4.5, a NEPPS State would have to consult the May 17, 1995 NEPPS agreement for details of the NEPPS system.

*Section 4.7 Converting Categorical Grants to a PPG During FY 1997*

In FY 1997, for various reasons (e.g. converting to a fiscal year different than 10/1/96–9/30/97) a state may wish to convert from categorical grants to a PPG during the federal fiscal year. The following procedures apply to those applicants who receive a categorical grant(s) for the beginning of FY 1997 and desire to convert from a categorical grant(s) to a PPG(s).

The State or Tribe should submit applications for all FY 1997 categorical grants according to the current categorical application schedule. EPA will continue to award the applicant's categorical grants for FY 1997. To facilitate the applicant's receipt of its total annual grant funding the applicant should be prepared to indicate at the time of its categorical award whether it anticipates participation in a PPG in FY 1997. If so, the applicant should provide an estimated start date for the PPG. There is no deadline for submitting a

PPG application to convert specified categorical grants during FY 1997. However, the sooner an application is submitted, the more advantages of the PPG the recipient will realize in FY 1997. Applicants should refer to Section 4 for additional instructions.

If an applicant then decides to convert to a PPG, the applicant must submit a PPG application and consult with the Regional Administrator to select a PPG start date. The Regional Administrator will arrange for the necessary deobligation and reprogramming of funds. Any unobligated FY 1996 or FY 1997 funds may be reprogrammed from the categorical grant to the PPG. However, sufficient funds must remain in the categorical grant for close-out until the final Financial Status Report (FSR) has been received. Upon receipt of the final FSR, any remaining unexpended funds in the categorical grant may be deobligated and reprogrammed into the new PPG. The Regional Administrator will then award the PPG. The FY 1997 categorical grant should be closed when appropriate and upon receipt of a final FSR funds will be reprogrammed into the PPG. Further instructions on conversion are contained in the "FY 1996 Advice of Allowance Letter" (June 25, 1996).

SUMMARY OF PPG APPLICATION REQUIREMENTS

PPG application elements	Applicants for a PPG seeking administrative flexibility only based on categorical grant workplans. Most elements already in categorical workplans	Applicants for a PPG seeking administrative and programmatic flexibility based on categorical grant workplans. EnPA/TEA addresses differences from categorical workplans	Applicants seeking admin. and program flexibility based on an EnPA/TEA that replaces categorical grant workplans
Standard Form 424—"Application for Federal Assistance" (1st page).	Required .....	Required .....	Required.
EnPA/TEA .....	Optional .....	Required .....	Required.
Budget .....	Required .....	Required .....	Required.
Grant Selection .....	Required .....	Required .....	Required.
Rationale and expected benefits	Required .....	Required .....	Required.
Negotiated Environmental Goals and Priorities.	N/A .....	Required .....	Required.
EPA Roles and Responsibilities to Support State and Tribal Efforts.	Optional .....	Required .....	Required.
PPG Program Commitments .....	Required .....	Required .....	Required.
Categorical Workplans .....	Required .....	Required .....	N/A
Core Program Commitments .....	Required .....	Required .....	Required.
Multimedia/ strategic Program Commitments.	Optional .....	Encouraged .....	Encouraged.
Environmental Indicators .....	Optional .....	Optional .....	Optional.
Evaluation of PPG .....	Required .....	Required .....	Required.
Public Participation .....	Optional .....	Optional .....	Optional.

Key: N/A=Not applicable.

NOTE: States entering NEPPS also references May 17 NEPPS Agreements.

<sup>6</sup> Currently, this option is available for States, although interested Tribes could explore applicability with their Regional Administrator.

## 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. In any circumstance where a State or Tribe proposes activities that will lead it to significantly deviate from NPM priorities or regulatory requirements, or raise issues of national consistency, the Regions will consult with the appropriate NPM. In many cases, NPMs also allocate national categorical grant funds to EPA's Regions based on an established allocation criteria.

*Grants Administration Division (GAD).* The GAD's responsibilities include: (1) Sponsoring Office for the Performance Partnership Grant Delegation of authority; (2) approving Office for deviations to 40 CFR Part 31 required to implement PPGs; and (3) sponsoring office for proposed PPG regulations (FY 1997).

*Office of the Comptroller (OC).* The OC'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; and (3) upon request of Appropriations Committees providing periodic reports on the number of states participating in PPGs and the grant funds they are using.

### Section 5.2 EPA Regions

*Regional Administrator (RA).* The RA is the designated approval and award official for PPGs with re-delegation authority to the Deputy Regional Administrator or the Division Director or equivalent level (See Section 7.1). The RA, or a senior regional official(s) designated by the RA, should conduct the initial negotiations with the applicant to establish environmental priorities and goals (See Section 4.5). The RA should notify NPMs when their programs are being incorporated into a PPG and should keep the NPMs informed of activities carried out under PPGs that affect the NPMs' programs.

The RA should also designate a single point of contact to serve as the Performance Partnership Grant Project Officer (PO) on 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 sub-project officers to support the designated Project Officer, or set additional criteria for designating the PO.

*Regional Program Manager.* 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: (1) Will at a minimum be consulted about/participate in negotiations with States and Tribes; (2) articulate Agency, NPM and Regional goals and priorities and work with the States and Tribes to incorporate them into the EnPA/TEA; (3) serve as the principal source for technical program assistance to States and Tribes; and (4) participate in State and Tribal program evaluation as defined by the EnPA/TEA. In any circumstance where a State or Tribe proposes activities that will lead it to significantly deviate from NPM priorities or regulatory requirements, or raise issues of national consistency, the Regions will consult with the appropriate NPM.

*Regional Project Officer.* As designated by the RA, the Performance Partnership Grant Project Officer (PO) will be the primary point of contact for the grant recipient. This individual will be responsible for coordinating all programmatic and technical aspects of the EnPA/TEA and PPG program commitments and the PPG agreement. All POs must have successfully completed the EPA training course "Managing Your Financial Assistance Agreement—Project Officer Responsibilities." The POs should coordinate 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 of the PPG award, and post-award administrative management of the PPG grants. (These functions are the same as those for the award and management of categorical grants.)

*Regional Budget Offices.* Regional Budget Offices are responsible for submitting approval requests to Headquarters Budget Division for Regional reprogramming of funds from categorical program elements to the PPG program element 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 would 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 EnPAs/TEAs or workplans. Budget periods for PPGs will be for 12 months but the applicant has the flexibility to select, in consultation with the Regional Administrator, the specific start and end dates for the budget period. Project periods may remain open to reflect the continuing nature of PPGs. Project and budget periods may not begin before the date of enactment of PPG statutory authority (April 26, 1996).

### Section 6.2 Award amounts and distribution of funds

National and Regional allocation of grant funds to State and Tribal recipients will be the same whether the funds are awarded as PPGs or categorically.

### Section 6.3 Reprogramming of funds

EPA's Budget Division will continue to allocate grant funds in the current categorical program elements. Regional Budget Officers will request the reprogramming of funds into the PPG program element. The PPG program element is EY5H2B. For FY 1996, 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 and PPG program commitments acceptable. 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 decision memorandum dated \_\_\_\_\_ and Signed by \_\_\_\_\_.  
Person to contact: \_\_\_\_\_  
Phone: \_\_\_\_\_ (including area code)

### Section 6.4 FY 1995 Carryover and Unexpended Prior Year Funds

Funds appropriated in FY 1995 and prior years that remain available for obligation, or that are deobligated,

should not be awarded in PPGs. The recipient, in consultation with the Regional Administrator, may choose to maintain FY 1995 and prior year unexpended balances by extending the existing categorical grants, consistent with limits established on carry-over by the Comptroller General, or by applying for a partial categorical grant for the next fiscal year to cover the unexpended funds. Project officers should inform recipients proposing to apply or to convert to a PPG of the need to maintain prior year accounts through extensions until FY 1995 and prior year funds are expended.

Funds recovered from an applicant's FY 1996 categorical grants will be available to fund PPGs awarded in FY 1997 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." FY 1997 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 workplan, or those activities contemplated for the next PPG award cycle's goals.

If the PPG program commitments include activities that cannot be fully funded at the time of award, additional funding can be added as it becomes available. The Regions may also forward-fund PPG awards.

#### Section 6.5 Cost Share Requirements

EPA's policy and goal is that States and Tribes should continue to spend, in effect, 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 in the EnPA/TEA, the total resources in the State or Tribe, both Federal and non-Federal, targeted to environmental programs should not be reduced. 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. The primary exception is where a State or Tribe reduces funds across all State or Tribal agencies. When the reduction is due to a non-selective reduction in the expenditures related to all programs and entities of the executive branch of the State or Tribal government, EPA also will allow reductions in environmental program resources.

It is also important to recognize that, when the categorical funds are reprogrammed into the PPG program element and the PPG is awarded, those funds lose their categorical nature. The recipient's minimum cost share requirement applies to the entire grant. The recipient cost share must be expended for performance of the approved PPG program commitments as reflected in the approved PPG budget of total estimated program costs, i.e., without regard to the original categorical source of federal funds and categorical activities. As the costs of performing PPG work are incurred, the recipient will be reimbursed the federal share of total expenditures based on the federal/recipient share ratios stated on the PPG grant award. While recipients

must maintain adequate financial records of their cost share, EPA may not require categorical financial reporting by recipients or track categorical match shares or maintenance of effort (MOE) expenditures for those grant funds included in a PPG.

Recipients should calculate a single, composite minimum cost share for each of their PPGs. To calculate the minimum cost share for a PPG, start with the amount of federal dollars from each program (source of funds) going into the PPG. The minimum required cost share for each portion is determined by following the cost share requirements of the relevant categorical grant program (based on the source of funds). The minimum recipient cost share for the PPG is the sum of the minimum cost shares of the contributed components shown in the fourth column of the following example.

*Example.* A State 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	PPG total	Federal share	Recipient cost share	Basis of cost share
Water-106 .....	1,239,064	1,087,995	<sup>1</sup> 151,069	MOE.
Nonpoint Source .....	924,333	554,600	<sup>2</sup> 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	<sup>2, 3</sup> 916,132	MOE or 40% match.
PPG .....	5,215,079	3,587,882	1,627,297	PPG guidance.

<sup>1</sup> The Water 106 program has no match requirement. 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 is part of a PPG.

<sup>2</sup> The Air 105 and the Nonpoint Source programs have both a match and an 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.

<sup>3</sup> 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.

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 program commitments, the applicant need only reflect object class costs for FY 1997. 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. Required budget detail should not exceed levels supplied under previous EPA categorical grant awards.

### Section 7.3 Certifications

States/Tribes may submit one set of grant certifications (i.e., anti-lobbying, debarment/suspension, SF424B—assurances and procurement) with the PPG application on an annual basis—bundled certifications.

### 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 program 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: To be assigned

## 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

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 program element. PPG costs will not be tracked to each of the original individual categorical source(s) of grant funding.

### 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 award.

### 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 which categorical program(s) or project grants will be included in its established PPG award(s), consistent with Section 3.2. 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 award cycle. 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 8.6 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 8.7 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 program 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—the next level of appeal after

the project officer. 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.

#### Attachment 1—Sample Performance Measures

Below are examples of performance measures that fall into three categories:

- Program performance measures,
- Business environmental performance measures, and
- Environmental indicators.

*State/Tribal Program Performance Measures* suggest how effectively or reliably a State/Tribal program is operating, and are the ones we have traditionally relied on to judge State and Tribal programs. While these kinds of measures will still be required for PPGs, the States', Tribes' and EPA's goals are to reduce these to a minimum, make the ones we use more meaningful, and develop useful measures of cross-program activities such as multi-media pollution prevention, ecosystem management, etc. Measures could include:

- percentage of NPDES permit holders in significant non-compliance,
- percentage of enforcement actions taken within timely and appropriate guidelines,
- percentage of permits up-to-date,
- percentage of river, lake and estuary miles monitored,
- percentage of falsification rates in drinking water data,
- percentage of enforcement actions leading to supplement projects,
- number of permits avoided by helping companies reduce emissions below permit thresholds,
- number of multi-media inspections or permits,
- percentage of State or Tribal program personnel trained in pollution prevention, ecosystem management, or environmental justice, and
- number of innovative pilot programs (e.g., voluntary programs).

*Business Environmental Performance Measures* assess environmental behavior in the private sector. These measures can complement or substitute for environmental indicators that may be difficult or expensive to measure. Measures could include:

- compliance rates for particular sectors,
- percentage reductions in water generation rates (per unit product),
- percentage reduction in total emissions,
- percentage of facilities participating in voluntary pollution prevention programs

and meeting their publicly stated pollution prevention goals,

- number of significant changes at any entity (public or private) that have been made as a result of compliance assistance in three categories: (1) notification, (2) regulatory requirements, and (3) environmental improvements,
- change in the compliance profile of a particular sector, regulated population, or community that is the focus of a compliance assistance initiative,
- percent of entities (public or private) within a particular sector, regulated population, or community that have received compliance assistance, and
- percent of facilities that participate in voluntary compliance assistance programs and come in to compliance within the requisite correction period.

*Environmental Indicators* measure changes in air, water and land quality parameters and human health. Measures could include:

- the percentage of population exposed to substandard air,
- the percentage of population exposed to substandard water,
- percentage of stream miles meeting designated uses,
- percentage reductions in air pollution such as VOCs, Sox, etc., and
- percentage reductions in dangerous blood-lead levels in children.

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#### Availability of Department of Energy Petition to EPA for a No-Migration Determination for the Waste Isolation Pilot Plant (WIPP) Under the Resource Conservation and Recovery Act

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The Environmental Protection Agency announces the availability for public comment of a petition for a no-migration determination submitted to the Agency by the Department of Energy (DOE) for its Waste Isolation Pilot Plant (WIPP) on June 18, 1996. The WIPP is a geological repository intended for the disposal of mixed hazardous and transuranic wastes generated by DOE in the production and decommissioning of nuclear weapons. The hazardous portion of the waste is subject to the land disposal restrictions of the Resource Conservation and Recovery Act (RCRA), as codified at 40 CFR Part 268. DOE's no-migration petition is intended to show that the WIPP will comply with the land disposal restrictions by demonstrating that hazardous constituents will not migrate out of the WIPP disposal unit for as long as the wastes remain hazardous (a regulatory period of up to 10,000 years).