

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8234-5]

**Guidelines for Awarding Clean Water Act Section 319 Base Grants to Indian Tribes and Request for Proposals From Indian Tribes for Competitive Grants Under Clean Water Act Section 319 in FY 2007 (CFDA 66.460—Nonpoint Source Implementation Grants; Funding Opportunity Number EPA-OW-OWOW-07-1)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of Guidelines for Section 319 Base Grants and Request for Proposals for Section 319 Competitive Grants.

**SUMMARY:** This notice publishes EPA's national guidelines for the award of base grants and EPA's Request for Proposals (RFP) for the award of supplemental funding in the form of competitive grants under the Clean Water Act (CWA) section 319(h) nonpoint source (NPS) grants program to Indian Tribes in FY 2007. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA anticipates, pending enactment of its FY 2007 appropriations, awarding a total of \$7,000,000 to eligible Tribes which have approved NPS assessments and management programs and (treatment-as-a-state" (TAS) status as of October 13, 2006. EPA expects the allocation of funds will be similar to the amount distributed in FY 2006, which included approximately \$3.2 million in base grants awarded to 95 Tribes and \$3.8 million awarded to 28 Tribes through a competitive process. Section A includes EPA's national guidelines which govern the process for awarding base grants to all eligible Tribes, and section B is the national RFP for awarding the remaining funds on a competitive basis. In future years, EPA intends to post the RFP for competitive grants under section 319 at <http://www.grants.gov> and on EPA's Web site at <http://www.epa.gov/owow/nps/tribal>.

**DATES:** These guidelines are effective October 25, 2006.

**FOR FURTHER INFORMATION CONTACT:** Andrea Matzke, U.S. EPA, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division, telephone: (202) 566-1155; fax: (202) 566-1331; e-mail: [matzke.andrea@epa.gov](mailto:matzke.andrea@epa.gov). Also contact the appropriate EPA Regional Tribal NPS Coordinator identified in section B.VII and also listed on EPA's website under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>.

**SUPPLEMENTARY INFORMATION:**

**Background**

EPA anticipates that Congress will, for the eighth year in a row, authorize EPA to award NPS control grants to Indian Tribes in FY 2007 in an amount that exceeds the statutory cap (in section 518(f) of the CWA) of  $\frac{1}{3}$  of 1 percent of the total section 319 appropriation. There is continuing recognition that Indian Tribes need increased financial support to implement NPS programs that address critical water quality concerns on Tribal lands. EPA will continue to work closely with the Tribes to assist them in developing and implementing effective Tribal NPS pollution programs.

EPA was pleased by the quality of the Tribes' work plans that formed the basis of the grants awarded to Tribes in FY 2006, which included approximately \$3.2 million in base grants awarded to 95 Tribes and \$3.8 million awarded to 28 Tribes for specific watershed projects through a competitive process. We believe that the FY 2006 grants were directed towards high-priority activities that will produce improved water quality. We look forward to working with Tribes again in FY 2007 to implement successful projects addressing the extensive NPS control needs throughout Indian country.

*Guidelines for Awarding CWA Section 319 Base Grants to Indian Tribes (See Section A Below)*

**Overview Information**

Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA anticipates awarding section 319 base grants to eligible Tribes

in the amount of \$30,000 or \$50,000 of Federal section 319 funding (depending on land area). Section 319 base funds may be used for a range of activities that implement the Tribe's approved NPS management program, including: Hiring a program coordinator; conducting NPS education programs; providing training and authorized travel to attend training; updating the NPS management program; developing watershed-based plans; and implementing, alone or in conjunction with other agencies or other funding sources, watershed-based plans and on-the-ground watershed projects.

*Request for Proposals From Indian Tribes for Competitive Grants Under Clean Water Act Section 319 in FY 2007 (See Section B Below)*

**Overview Information**

This RFP is issued pursuant to section 319(h) of the CWA. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA anticipates setting aside a portion of section 319 funds for competitive grant awards to Tribes for the purpose of funding the development and implementation of watershed-based plans and other on-the-ground projects that result in a significant step towards solving NPS impairments on a watershed-wide basis. Tribes are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships, integrating strong science and data, and coordinating priority setting and integrated solutions. EPA anticipates awarding approximately 25 competitive grants, subject to availability of funds and the quality of proposals submitted. Eligible Tribes may apply for competitive funding by submitting a proposal for up to a maximum budget of \$150,000 of Federal section 319 funding

(plus the additional required match of the total project cost).

*Federal Agency Name:* EPA.

*Funding Opportunity Title:* Tribal Nonpoint Source Implementation Grants.

*Announcement Type:* Request for Proposals.

*Funding Opportunity Number:* EPA-OW-OWOW-07-1.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 66.460.

*Dates:* Deadline EPA uses to determine eligibility to receive competitive 319 grants. October 13, 2006.

Deadline for receipt of proposals in hard copy by Region or electronically through Grants.gov. December 19, 2006.

Headquarters notifies Regions/Tribes of selections for competitive 319 grants. March 5, 2007.

Tribes submit final grant application to Region for competitive 319 grants. April 5, 2007.

Other than the date EPA will use to determine eligibility to receive 319 grants and the deadline for receipt of proposals in response to the RFP (Section B), the dates above are the anticipated dates for those actions.

## **Section A. Guidelines for Awarding Clean Water Act Section 319 Base Grants to Indian Tribes**

### *I. General*

EPA has developed guidelines for awarding CWA section 319 base grants to Indian Tribes. These guidelines apply to section 319 base grants awarded from funds appropriated by Congress in FY 2007 and in subsequent years.

#### **1. Environmental Results**

Grants awarded under these guidelines will advance the protection and improvement of water quality in support of Goal 2 (Clean and Safe Water), Objective 2 (Protect Water Quality), Sub-objective 1 (Protect and Improve Water Quality on a Watershed Basis) of EPA's 2003-2008 Strategic Plan (see <http://www.epa.gov/water/waterplan/documents/Goal2.pdf>). In support of Sub-objective 2.2.1, and consistent with EPA Order 5700.7, Environmental Results under EPA Assistance Agreements (see <http://www.epa.gov/ogd/grants/award/5700.7.pdf>), it is anticipated that grants awarded under these guidelines will be expected to accomplish various environmental outputs and outcomes as described below. All proposed work plans must include specific statements describing the environmental results of the proposed project in terms of well-defined outputs, and, to the maximum

extent practicable, well-defined outcomes that demonstrate how the project will contribute to the overall protection and improvement of water quality.

Environmental outputs (or deliverables) refer to an environmental activity, effort, and/or associated work product 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 an assistance agreement funding period. Examples of environmental outputs anticipated as a result of section 319 grant awards may include but are not limited to: a watershed-based plan, progress reports, or a particular number of on-the-ground management measures or practices installed or implemented during the project period.

Environmental outcomes mean the 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 may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achieved within an assistance agreement funding period. Examples of environmental outcomes anticipated as a result of section 319 grants to be awarded may include but are not limited to: an increased number of NPS-impaired waterbodies that have been partially or fully restored to meet water quality standards or other water quality-based goals established by the Tribes; and/or an increased number of waterbodies that have been protected from NPS pollution.

#### **2. Allocation Formula**

Each eligible Tribe will receive Federal section 319 base funding in accordance with the following land area scale:

Square miles (acres)	Base amount
Less than 1,000 sq. mi. (less than 640,000 acres) .....	\$30,000
Over 1,000 sq. mi. (over 640,000 acres) .....	50,000

The land area scale is the same as used in previous years. EPA continues to rely upon land area as the deciding factor for allocation of funds because NPS pollution is strongly related to land use; thus land area is a reasonable factor that generally is highly relevant to identifying Tribes with the greatest needs (recognizing that many Tribes

have needs that significantly exceed available resources).

### **3. Eligible Activities**

Section 319 base funds may be used for a range of activities that implement the Tribe's approved NPS management program, including: Hiring a program coordinator; conducting NPS education programs; providing training and authorized travel to attend training; updating the NPS management program; developing watershed-based plans; and implementing, alone or in conjunction with other agencies or other funding sources, watershed-based plans and on-the-ground watershed projects. In general, base funding should not be used for general assessment activities (e.g., monitoring the general status of reservation waters, which may be supported with CWA section 106 funding). EPA encourages Tribes to use section 319 funding, and explore the use of other funding such as CWA section 106 funding, to support project-specific water quality monitoring, data management, data analysis, assessment activities, and the development of watershed-based plans.

### *II. Eligibility and Match Requirements*

To be eligible for NPS base grants, a Tribe or intertribal consortium must: (1) Be Federally recognized; (2) have an approved NPS assessment report in accordance with CWA section 319(a); (3) have an approved NPS management program in accordance with CWA section 319(b); and (4) have "treatment-as-a-state" (TAS) status in accordance with CWA section 518(e). To be eligible for base and competitive NPS grants in FY 2007, Tribes must meet these eligibility requirements as of October 13, 2006, as announced in the FY 2006 guidelines on January 17, 2006, at 71 FR 2531. To be eligible for NPS grants in years beyond FY 2007, Tribes must meet these eligibility requirements as of the second Friday in October for the applicable fiscal year unless otherwise announced. Tribes should contact their EPA Regional Tribal NPS Coordinator for further information about the eligibility process (see section B.VII for Agency contact information and also EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>).

Section 319(h)(3) of the CWA requires that the match for NPS grants is 40 percent of the total project cost. In general, as required in 40 CFR 31.24, the match requirement can be satisfied by any of the following: allowable costs incurred by the grantee, subgrantee, or a cost-type contractor, including those allowable costs borne by non-Federal

grants; by cash donations from non-Federal third parties; or by the value of third party in-kind contributions.

EPA's regulations also provide that EPA may decrease the match requirement to as low as 10 percent if the Tribe can demonstrate in writing to the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is a member of the intertribal consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship (see 40 CFR 35.635). In making grant awards to Tribes that provide for a reduced match requirement, Regions must include a brief finding in the final award package that the Tribe has demonstrated that it does not have adequate funds to meet the required match.

### III. Application Requirements for Base Grants

#### 1. Address To Request Application Package for Base Grants

Grant application forms, including Standard Form (SF) 424, are available at [http://www.epa.gov/ogd/grants/how\\_to\\_apply.htm](http://www.epa.gov/ogd/grants/how_to_apply.htm) and by mail upon request by calling the EPA Headquarters Grants Administration Division at (202) 564-5320. Tribes may also contact their EPA Regional Tribal NPS Coordinator for further information about the application process (see section B.VII for Agency contact information and also EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>).

#### 2. Content and Form of Application Submission for Base Grants

Please note that only the proposed work plan, including all of the components outlined in the section immediately below, needs to be included in the initial application for base grants (see section A.VIII for deadlines and milestones for FY 2007 base grants).

To apply for section 319 base grants, you must submit a proposed work plan to the appropriate EPA Regional Tribal NPS Coordinator (see section B.VII for Agency contact information and also EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>). You may submit the proposed work plan as either a hard copy or an electronic submission. If you submit a hard copy proposed work plan, you have the option to submit it by U.S. Postal Mail, express delivery service, hand delivery, or courier service only. EPA will not accept faxed submissions. If you submit a hard copy proposed work plan, you are encouraged (not

required) to include a compact disc (CD) with the electronic version of the proposed work plan. If you submit your proposed work plan electronically, it should be sent to the appropriate EPA Regional Tribal NPS Coordinator at the e-mail address listed in section B.VII of this announcement and also on EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>.

The specific content and form of the proposed work plan for the award of section 319 base grants is as follows:

*a. Proposed Work Plan.* Tribes must submit a work plan to receive base funding. All work plans must be consistent with the Tribe's approved NPS management program and conform to legal requirements that are applicable to all environmental program grants awarded to Tribes (see 40 CFR 35.507 and 35.515) as well as the grant requirements which specifically apply to NPS management grants (see 40 CFR 35.638). As provided in those regulations, and in accordance with EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*, all work plans must include:

- i. Description of each significant category of NPS activity to be addressed;
- ii. Work plan components;
- iii. Work plan commitments for each work plan component, including anticipated environmental outputs and outcomes (as required by EPA Order 5700.7) and the applicant's plan for tracking and measuring its progress towards achieving the expected outputs and outcomes;
- iv. Estimated funding amounts for each work plan component;
- v. Estimated work years for each work plan component;
- vi. Roles and responsibilities of the recipient and EPA in carrying out the work plan commitments; and
- vii. Reporting schedule and a description of the performance evaluation process that will be used that accounts for: (a) A discussion of accomplishments as measured against work plan commitments and anticipated environmental outputs and outcomes; (b) a discussion of the cumulative effectiveness of the work performed under all work plan components; (c) a discussion of existing and potential problem areas; and (d) suggestions for improvement, including, where feasible, schedules for making improvements.

*b. Work Plan to Develop a Watershed-Based Plan.* If a Tribe submits a work plan to develop a watershed-based plan, it must include a commitment to incorporate the nine components of a

watershed-based plan identified in section A.V.1 below.

*c. Work Plan to Implement a Watershed-Based Plan.* If a Tribe submits a work plan to implement a watershed-based plan, it must be accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in section A.V.1 below.

### IV. Submission Dates and Times for Proposed Work Plans for Base Grants

In FY 2007, eligible Tribes must submit to the appropriate EPA Regional Tribal NPS Coordinator proposed work plans for base funding by December 19, 2006 (see section B.VII for Agency contact information; Agency contact information is also posted on EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal>). Each EPA Region will review the proposed work plan for base funding and, where appropriate, recommend improvements to the plan by January 19, 2007. The Tribe must submit a final work plan by February 20, 2007. If a Tribe has not submitted an approvable work plan for base funding by February 20, 2007, its allocated amount will be added to the competitive pool which will be used to fund Tribal NPS competitive grants (see section B).

Submission dates and times for proposed work plans for NPS base grant funding for years beyond FY 2007 are described in section A.IX below.

### V. Watershed-Based Plans

EPA strongly encourages Tribes to use section 319 funding for the development and/or implementation of watershed-based plans to protect unimpaired waters and restore NPS-impaired waters. EPA also encourages Tribes to explore the use of other funding such as CWA section 106 funding to support the development of watershed-based plans. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships, integrating strong science and data, and coordinating priority setting and integrated solutions. This section outlines the specific information that should be included in all watershed-based plans that are developed or implemented using section 319 funding. This information correlates with the elements of a watershed-based plan outlined in the NPS grants guidelines for States (see *FY 2004 Nonpoint Source*

*Program and Grants Guidelines for States and Territories*, available at <http://www.epa.gov/owow/nps/cwact.html>). One significant difference from the State guidelines is that a watershed-based plan for Tribes provides for the integration of "water quality-based goals" (see element (c) below), whereas the State guidelines call for specific estimates of load reductions that are expected to be achieved by implementing the plan. EPA has incorporated this flexibility for Tribes in recognition that not all Tribes have yet developed water quality standards and many Tribes may need additional time and/or technical assistance in order to develop more sophisticated estimates of the NPS pollutants that need to be addressed. Where such information does exist, or is later developed, EPA expects that it will be incorporated as appropriate into the watershed-based plan.

To the extent that information already exists in other documents (e.g., NPS assessment reports or NPS management programs), the information may be incorporated by reference into the watershed-based plan. Thus, the Tribe need not duplicate any existing process or document that already provides needed information.

#### 1. Components of a Watershed-Based Plan

a. An identification of the causes and sources or groups of similar sources that will need to be controlled to achieve the goal identified in element (c) below. Sources that need to be controlled should be identified at the significant subcategory level with estimates of the extent to which they are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).

b. A description of the NPS management measures that will need to be implemented to achieve a water quality-based goal described in element (c) below, as well as to achieve other watershed goals identified in the watershed-based plan, and an identification (using a map or a description) of the critical areas for which those measures will be needed to implement the plan.

c. An estimate of the water quality-based goals expected to be achieved by implementing the measures described in element (b) above. To the extent possible, estimates should identify specific water quality-based goals,

which may incorporate, for example: load reductions; water quality standards for one or more pollutants/uses; NPS total maximum daily load allocations; measurable, in-stream reductions in a pollutant; or improvements in a parameter that indicates stream health (e.g., increases in fish or macroinvertebrate counts). If information is not available to make specific estimates, water quality-based goals may include narrative descriptions and best professional judgment based on existing information.

d. An estimate of the amounts of technical and financial assistance needed, associated costs, and/or the sources and authorities that will be relied upon to implement the plan. As sources of funding, Tribes should consider other relevant Federal, State, local and private funds that may be available to assist in implementing the plan.

e. An information and education component that will be used to enhance public understanding and encourage early and continued participation in selecting, designing, and implementing the NPS management measures that will be implemented.

f. A schedule for implementing the NPS management measures identified in the plan that is reasonably expeditious.

g. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.

h. A set of criteria that can be used to determine whether the water quality-based goals are being achieved over time and substantial progress is being made towards attaining water quality-based goals and, if not, the criteria for determining whether the watershed-based plan needs to be revised.

i. A monitoring component to evaluate the effectiveness of the implementation efforts over time, measured against the criteria established under element (h) above.

EPA recognizes the difficulty of developing the information described above with precision and, as these guidelines reflect, believes that there must be a balanced approach to address this concern. On one hand, it is absolutely critical that Tribes make, at the subcategory level, a reasonable effort to identify the significant sources; identify the management measures that will most effectively address those sources; and broadly estimate the expected water quality-based goals that will be achieved. Without such information to provide focus and direction, it is much less likely that a project that implements the plan can

efficiently and effectively address the NPSs of water quality impairments. On the other hand, EPA recognizes that even with reasonable steps to obtain and analyze relevant data, the available information at the planning stage (within reasonable time and cost constraints) may be limited; preliminary information and estimates may need to be modified over time, accompanied by mid-course corrections in the watershed plan; and it often will require a number of years of effective implementation to achieve the goals. EPA fully intends that the watershed planning process described above should be implemented in a dynamic and iterative manner to assure that projects implementing the plan may proceed even though some of the information in the watershed plan is imperfect and may need to be modified over time as information improves.

#### 2. Scale and Scope of Watershed-Based Plans

The watershed-based plan should address a large enough geographic area so that its implementation addresses all of the significant sources and causes of impairments and threats to the waterbody in question. EPA recognizes that many Tribes may face jurisdictional limitations outside reservation boundaries. To the extent possible, EPA encourages Tribes to engage other partners and include mixed ownership watersheds when appropriate to solve the water quality problems (e.g., Tribal, Federal, State, and private lands). While there is no rigorous definition or delineation for this concept, the general intent is to avoid single segments or other narrowly defined areas that do not provide an opportunity for addressing a watershed's stressors in a rational and economical manner. At the same time, the scale should not be so large as to minimize the probability of successful implementation.

Once a watershed-based plan that contains the information identified above has been established, it can be used as the foundation for preparing annual work plans. Like the NPS management program approved under section 319(b), a watershed-based plan may be a multi-year planning document. Whereas the NPS management program provides overall program guidance to address NPS pollution on Tribal lands, a watershed-based plan focuses NPS planning on a particular watershed identified as a priority in the NPS management program. Due to the greater specificity of a watershed-based plan, it will generally have considerably more detail than a NPS management program, and identified portions may be implemented through highly specific

annual work plans. While the watershed-based plan can be considered a subset of the NPS management program, the annual work plan can be considered a subset of the watershed-based plan.

A Tribe may choose to implement the watershed-based plan in prioritized portions (e.g., based on particular segments, other geographic subdivisions, NPS categories in the watershed, or specific pollutants or impairments), consistent with the schedule established pursuant to item (f) above. In doing so, Tribes may submit annual work plans for section 319 grant funding that implement specific portions of the watershed-based plan. A watershed-based plan is a strategic plan for long-term success; annual work plans are the specific “to-do lists” to achieve that long-term success.

#### VI. Base Grant Requirements

##### 1. Grant Requirements

A listing and description of general EPA regulations applicable to the award of assistance agreements may be viewed at [http://www.epa.gov/ogd/AppKit/applicable\\_epa\\_regulations\\_and\\_description.htm](http://www.epa.gov/ogd/AppKit/applicable_epa_regulations_and_description.htm).

All applicable legal requirements including, but not limited to, EPA's regulations on environmental program grants for Tribes (see 40 CFR 35.500 to 35.735) and regulations specific to NPS grants for Tribes (see 40 CFR 35.630 to 35.638), apply to all section 319 grants.

##### 2. Performance Partnership Grants

Performance Partnership Grants (PPG) enable Tribes to combine funds from more than one environmental program grant into a single grant with a single budget. If the Tribe includes the section 319 grant as a part of an approved PPG, the match requirement may be reduced to 5 percent of the allowable cost of the work plan budget for the first 2 years in which the Tribe receives a PPG; after 2 years, the match may be increased up to 10 percent of the work plan budget (as determined by the Regional Administrator). (See 40 CFR 35.536).

Where the stated purpose is to include the section 319 base grant in a PPG, a Tribe may prepare a budget and proposed work plan based upon the assumption that EPA will approve the waiver amount for PPGs under 40 CFR 35.536. If a proposed PPG work plan differs significantly from the section 319 work plan approved for funding, the Regional Administrator must consult with the National Program Manager. (See 40 CFR 35.535). The purpose of this consultation requirement is to

address the issue of ensuring that a project which is awarded section 319 base funding is implemented once commingled with other grant programs in a PPG.

If the Tribe does not or cannot include the section 319 base grant as part of an approved PPG, or chooses to withdraw the section 319 grant from their PPG, the Tribe must then meet the match requirements identified in section A.II above and, as applicable, negotiate a revised work plan with the EPA Regional Tribal NPS Coordinator.

##### 3. Intertribal Consortia

Some Tribes have formed intertribal consortia to promote cooperative work. An intertribal consortium is a partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. (See 40 CFR 35.502.) Individual Tribes who are a part of intertribal consortia that is awarded a section 319 base grant may not also be awarded an individual section 319 base grant. (Note that individual Tribes may still be eligible to apply for competitive funds described in section B if they do not also submit a proposal for competitive funds as part of an intertribal consortium.)

The intertribal consortium is eligible only if the consortium demonstrates that all its members meet the eligibility requirements for the section 319 program and authorize the consortium to apply for and receive assistance in accordance with 40 CFR 35.504. An intertribal consortium must submit with their proposed work plan to EPA adequate documentation of the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant. (See 40 CFR 35.504.) In making grant awards to Tribes who are part of intertribal consortia, Regions must include a brief finding in the final award package that the Tribes have demonstrated the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant.

##### 4. Non-Tribal Lands

The following discussion explains the extent to which section 319 grants may be awarded to Tribes for use outside the reservation. We discuss two types of off-reservation activities: (1) Activities that are related to waters within a reservation, such as those relating to sources upstream of a waterway entering the reservation; and (2) activities that are unrelated to waters of a reservation. As discussed below, the

first type of these activities may be eligible; the second is not.

*a. Activities That Are Related to Waters Within a Reservation.* Section 518(e) of the CWA provides that EPA may treat an Indian Tribe as a State for purposes of section 319 of the CWA if, among other things, “the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are \* \* \* within the borders of an Indian reservation” (see 33 U.S.C. 1377(e)(2)). EPA already awards grants to Tribes under section 106 of the CWA for activities performed outside of a reservation (on condition that the Tribe obtains any necessary access agreements and coordinates with the State, as appropriate) that pertain to reservation waters, such as evaluating impacts of upstream waters on water resources within a reservation. Similarly, EPA has awarded section 106 grants to States to conduct monitoring outside of State borders. EPA has concluded that grants awarded to an Indian Tribe pursuant to section 319 may similarly be used to perform eligible section 319 activities outside of a reservation if: (1) The activity pertains to the management and protection of waters within a reservation; and (2) just as for on-reservation activities, the Tribe meets all other applicable requirements.

*b. Activities That Are Unrelated to Waters of a Reservation.* As discussed above, EPA is authorized to award section 319 grants to Tribes to perform eligible section 319 activities if the activities pertain to the management and protection of waters within a reservation and the Tribe meets all other applicable requirements. In contrast, EPA is not authorized to award section 319 grants for activities that do not pertain to waters of a reservation. For off-reservation areas, including “usual and accustomed” hunting, fishing, and gathering places, EPA must determine whether the activities pertain to waters of a reservation prior to awarding a grant.

##### 5. Administrative Costs

Pursuant to CWA section 319(h)(12), administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10 percent of the grant award. The costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation.

## 6. Satisfactory Progress

For a Tribe that received section 319 funds in the preceding fiscal year, section 319(h)(8) of the CWA requires that the Region determine whether the Tribe made "satisfactory progress" during the previous fiscal year in meeting the schedule of activities specified in its approved NPS management program. The Region will base this determination on an examination of Tribal activities, reports, reviews, and other documents and discussions with the Tribe in the previous year. Regions must include in each section 319 base grant award (or in a separate document, such as the grant-issuance cover letter, that is signed by the same EPA official who signs the grant), a written determination that the Tribe has made satisfactory progress during the previous fiscal year in meeting the schedule of milestones specified in its NPS management program. The Regions must include brief explanations that support their determinations.

## 7. Operation and Maintenance

Each section 319 grant must contain a condition requiring that the Tribe assure that any management practices implemented for the project be properly operated and maintained for the intended purposes during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. Management practices and projects that are damaged or destroyed due to a natural disaster (e.g., earthquakes, storm events, floods, etc.) or events beyond the control of the grantee are exempt from this condition.

The condition must require the Tribe to assure that any subrecipient of section 319 funds similarly include the same condition in the subaward. Additionally, such condition must reserve the right of EPA and the Tribe,

respectively, to conduct periodic inspections during the life span of the project to ensure that operation and maintenance are occurring, and shall state that, if it is determined that participants are not operating and maintaining practices in an appropriate manner, EPA or the Tribe, respectively, will request a refund for the project supported by the grant.

The life span of a project will be determined on a case-by-case basis, tailored to the types of practices expected to be funded in a particular project, and should be specified in the grant condition. For assistance in determining the appropriate life span of the project, Tribes may wish to examine other programs implementing similar practices, such as the U.S. Department of Agriculture's conservation programs. For example, for conservation practices, it may be appropriate to construct the life span consistent with the life span for similar conservation practices as determined by the Commodity Credit Corporation (pursuant to the implementation of the Environmental Quality Incentives Program). Following the approach used in many Federal funding programs, practices will generally be operated and maintained for a period of at least 5 to 10 years.

## 8. Reporting

As provided in 40 CFR 31.40, 31.41, 35.507, 35.515, and 35.638, all section 319 grants must include a set of reporting requirements and a process for evaluating performance. Some of these requirements have been explicitly incorporated into the required work plan components that all Tribes must include in order to receive section 319 grant funding.

The work plan components required for section 319 funding, specifically those relating to work plan commitments and timeframes for their accomplishment, facilitate the management and oversight of Tribal grants by providing specific activities and outputs by which progress can be monitored. The performance evaluation process and reporting schedule (both work plan components) also establish a

formal process by which accomplishments can be measured. Additionally, the satisfactory progress determination (for Tribes that received section 319 funding in the preceding fiscal year) helps ensure that Tribes are making progress in achieving the goals in their NPS management programs.

Regions will ensure that the required evaluations are performed according to the negotiated schedule (at least annually) and that copies of the performance evaluation reports are placed in the official files and provided to the recipient.

## VII. Technical Assistance to Tribes

In addition to providing NPS grant funding to Tribes, EPA remains committed to providing continued technical assistance to Tribes in their efforts to control NPS pollution. During the past ten years, EPA has presented many workshops to Tribes nationwide to assist them in developing: (1) NPS assessments to further their understanding of NPS pollution and its impact on water quality; (2) NPS management programs to apply solutions to address their NPS problems; and (3) specific projects to effect on-the-ground solutions. The workshops have provided information on related EPA and other programs that can help Tribes address NPS pollution, including the provision of technical and funding assistance. Other areas of technical assistance include watershed-based planning, water quality monitoring, section 305(b) reports on water quality, and section 303(d) lists of impaired waters. EPA intends to continue providing NPS workshops to interested Tribes in FY 2007 (and beyond) and to provide other appropriate technical assistance as needed. EPA also intends to include special emphasis in the workshops on the development and implementation of watershed-based plans that are designed to address on-the-ground water quality improvements.

## VIII. Anticipated Deadlines and Milestones for FY 2007 Base Grants

Deadline for Tribes to be eligible for 319 grants .....	October 13, 2006.
Tribes submit base grant proposed work plan to Region .....	December 19, 2006.
Region comments on Tribe's base grant proposed work plan .....	January 19, 2007.
Tribes submit final base grant work plan to Region .....	February 20, 2007.
Tribes submit final base grant application to Region .....	April 5, 2007.

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

#### *IX. Anticipated Deadlines and Milestones for Base Grants Beyond FY 2007*

Listed below are the anticipated deadlines and milestones for NPS base

grants for years beyond FY 2007 unless otherwise announced. The deadlines and milestones below refer to the dates within the particular fiscal year for which the Tribe is applying for NPS base grants. Each year, the specific dates will be posted on EPA's Web site at <http://www.epa.gov/owow/nps/tribal>. Tribes should also contact their EPA

Regional Tribal NPS Coordinator for further information about deadlines and milestones for years beyond FY 2007 (see EPA's Web site under "EPA Tribal NPS Coordinators" at <http://www.epa.gov/owow/nps/tribal> for Agency contact information).

Deadline for Tribes to be eligible for 319 grants .....	Second Friday in October.
Tribes submit base grant proposed work plan to Region .....	First Friday in December.
Region comments on Tribe's base grant proposed work plan .....	Second Wednesday in January.
Tribes submit final base grant work plan to Region .....	Second Friday in February.
Tribes submit final base grant application to Region .....	First Wednesday in April.

#### *X. Statutory and Executive Order Reviews*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. Section 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments. Although this action does not generally create new binding legal requirements, where it does, such requirements do not substantially and

directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). This action will not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the Agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this grant action contains legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit its final action in its report to Congress under the Act. This applies only to section A of this announcement.

#### **Section B. Request for Proposals From Indian Tribes for Competitive Grants Under Clean Water Act Section 319 in FY 2007 (Funding Opportunity Number EPA-OW-OWOW-07-1)**

Deadline EPA uses to determine eligibility to receive competitive 319 grants .....	October 13, 2006.
Deadline for receipt of proposals in hard copy by Region or electronically through Grants.gov .....	December 19, 2006.
Headquarters notifies Regions/Tribes of selections for competitive 319 grants .....	March 5, 2007.
Tribes submit final grant application to Region for competitive 319 grants .....	April 5, 2007.

Other than the date EPA will use to determine eligibility to receive 319 grants and the deadline for receipt of proposals in response to this RFP, the dates above are the anticipated dates for those actions.

#### *I. Funding Opportunity Description for Competitive Grants*

This RFP is issued pursuant to section 319(h) of the Clean Water Act (CWA). Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved nonpoint source (NPS) management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs

identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA anticipates, pending enactment of its FY 2007 appropriations, setting aside a portion of section 319 funds for competitive grant awards to Tribes for the purpose of funding the development and implementation of watershed-based plans and other on-the-ground projects that result in a significant step towards solving NPS impairments on a watershed-wide basis. Tribes are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters.

Grants awarded under this RFP will advance the protection and improvement of water quality in support of Goal 2 (Clean and Safe

Water), Objective 2 (Protect Water Quality), Sub-objective 1 (Protect and Improve Water Quality on a Watershed Basis) of EPA's 2003-2008 Strategic Plan (see <http://www.epa.gov/water/waterplan/documents/Goal2.pdf>). In support of Sub-objective 2.2.1, and consistent with EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements* (see <http://www.epa.gov/ogd/grants/award/5700.7.pdf>), it is anticipated that grants awarded under this RFP will accomplish various environmental outputs and outcomes described below. All proposed work plans must include specific statements describing the anticipated environmental results of the proposed project in terms of well-defined outputs, and, to the maximum extent practicable, well-defined outcomes that demonstrate how the



project will contribute to the overall protection and improvement of water quality.

Environmental outputs (or deliverables) refer to an environmental activity, effort, and/or associated work product 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 an assistance agreement funding period. Examples of environmental outputs anticipated as a result of grants awarded under this RFP may include but are not limited to: a watershed-based plan, progress reports, or a particular number of on-the-ground management measures or practices installed or implemented during the project period. Including the environmental output of a watershed-based plan furthers progress towards achieving the specific indicator measure for Sub-objective 2.2.1 in EPA's Strategic Plan which measures the number of Tribes that have developed and begun to implement a watershed-based plan for Tribal waters (see Measure WQ-28, EPA's National Water Program Guidance for FY 2007 at <http://www.epa.gov/water/waterplan/#nwp07>).

Environmental outcomes mean the 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 may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achieved within an assistance agreement funding period. Examples of environmental outcomes anticipated as a result of grants to be awarded under this RFP may include but are not limited to: an increased number of NPS-impaired waterbodies that have been partially or fully restored to meet water quality standards or other water quality-based goals established by the Tribes; and/or an increased number of waterbodies that have been protected from NPS pollution.

## II. Award Information

In FY 2006, EPA awarded approximately \$3.8 million to 28 Tribes for specific watershed projects through a competitive process. EPA anticipates that the amount of competitive funding available in FY 2007 will be similar or slightly lower than the amount available in FY 2006, since the availability of competitive funding is dependent, in part, upon the amount of funding that remains after a portion is first

distributed as base grants to all eligible Tribes (which may increase due to additional Tribes entering the NPS program).

EPA anticipates awarding approximately 25 competitive grants, subject to availability of funds and the quality of proposals submitted under this RFP. Eligible Tribes may apply for competitive funding by submitting a proposal up to a maximum budget of \$150,000 of Federal section 319 funding (plus the additional required match of the total project cost). Proposals evaluated, but not selected for this funding, may be retained for consideration for possible future awards under this RFP if additional funding materializes. Any additional selections for award under this RFP based on additional funding will be in accordance with the rankings developed by the review Committee (discussed below in section B.V.2) and Agency policy, and must be made within six months of the original competitive funding decisions.

EPA reserves the right to make partial awards by funding discrete activities, portions, or phases of the proposal. If EPA decides to partially fund the proposal, it will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal, or portion thereof, was evaluated and selected for award, and that maintains the integrity of the competition and the evaluation/selection process. EPA reserves the right to reject all proposals and make no award as a result of this announcement, or make fewer awards than anticipated. The EPA Award Official is the only official that can bind the Agency to the expenditure of funds for selected projects resulting from this announcement.

## III. Eligibility Information

### 1. Eligible Applicants

To be eligible for NPS grants, a Tribe or intertribal consortium must: (1) Be Federally recognized; (2) have an approved NPS assessment report in accordance with CWA section 319(a); (3) have an approved NPS management program in accordance with CWA section 319(b); and (4) have "treatment-as-a-state" (TAS) status in accordance with CWA section 518(e). To be eligible for NPS grants in FY 2007, Tribes must meet these eligibility requirements as of October 13, 2006.

Some Tribes have formed intertribal consortia to promote cooperative work. An intertribal consortium is a partnership between two or more Tribes that is authorized by the governing

bodies of those Tribes to apply for and receive assistance under this program. (See 40 CFR 35.502.) Individual Tribes who are a part of an intertribal consortia that is awarded a section 319 competitive grant may not also be awarded an individual section 319 competitive grant.

The intertribal consortium is eligible only if the consortium demonstrates that all its members meet the eligibility requirements for the section 319 program and authorize the consortium to apply for and receive assistance in accordance with 40 CFR 35.504. An intertribal consortium must submit with its proposal to EPA adequate documentation of the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant. (See 40 CFR 35.504.)

### 2. Cost Sharing or Matching

Section 319(h)(3) of the CWA requires that the match for NPS grants is 40 percent of the total project cost. In general, as required in 40 CFR 31.24, the match requirement can be satisfied by any of the following: allowable costs incurred by the grantee, subgrantee, or a cost-type contractor, including those allowable costs borne by non-Federal grants; by cash donations from non-Federal third parties; or by the value of third party in-kind contributions.

EPA's regulations also provide that EPA may decrease the match requirement to as low as 10 percent if the Tribe can demonstrate in writing to the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is a member of the intertribal consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship. (See 40 CFR 35.635.) Where the stated purpose is to decrease the match requirement based upon undue hardship, a Tribe may prepare a budget and proposal based upon the assumption that EPA will approve the reduced match under 40 CFR 35.635. If the Tribe does not demonstrate undue hardship, the Tribe must then meet the 40 percent match requirement. The Tribe must also provide a new budget with the final grant application based upon the program's 40 percent match requirement and the Federal award will be reduced to reflect the work plan and budget provided in the original proposal. The purpose of this requirement is to ensure that all work plan activities for a project which is evaluated and competitively awarded will be implemented as described in the original proposal.



Performance Partnership Grants (PPG) enable Tribes to combine funds from more than one environmental program grant into a single grant with a single budget. If the Tribe includes the section 319 competitive grant as a part of an approved PPG, the match requirement may be reduced to 5 percent of the allowable cost of the work plan budget for the first 2 years in which the Tribe receives a PPG; after 2 years, the match may be increased up to 10 percent of the work plan budget (as determined by the Regional Administrator). (See 40 CFR 35.536).

Where the stated purpose is to include the section 319 grant in a PPG, a Tribe may prepare a budget and proposal based upon the assumption that EPA will approve the waiver amount for PPGs under 40 CFR 35.536. If a proposed PPG work plan differs significantly from the section 319 work plan approved for funding under this RFP, the Regional Administrator must consult with the National Program Manager. (See 40 CFR 35.535). The purpose of this consultation requirement is to address the issue of ensuring that a project which is competitively awarded is implemented once commingled with other grant programs in a PPG. If the Tribe does not or cannot include the section 319 grant as part of an approved PPG, or chooses to withdraw the section 319 grant from their PPG, the Tribe must then meet the 40 percent match requirement (or 10 percent if undue hardship is demonstrated). The Tribe must also provide a new budget with the final grant application based upon the program's match requirement and the Federal award will be reduced to reflect the budget provided in the original proposal. The purpose of this requirement is to ensure that all work plan activities for a project which is competitively awarded will be implemented in accordance with the same budget and as described in the original proposal.

### 3. Threshold Evaluation Criteria

In addition to applicant eligibility and cost-share (discussed above in sections B.III.1 and B.III.2, respectively), all of the following threshold evaluation criteria must be met in order for a Tribe's proposal to be evaluated under section B.V and be considered for award. The appropriate EPA Regional Tribal NPS Coordinator will notify applicants who do not meet the threshold eligibility criteria under this section within 15 calendar days of EPA's decision on applicant eligibility.

a. An individual Tribe (or intertribal consortium) may not be awarded

competitive funding for more than one competitive grant proposal in a given year.

b. An individual Tribe (or intertribal consortium) may apply for competitive funding by submitting a proposal up to a maximum budget of \$150,000 of Federal section 319 funding (plus the additional required match of the total project cost). If a Tribe submits a proposal that exceeds \$150,000 of Federal section 319 funding, it will be rejected from further consideration.

c. All proposals must propose to fund activities that are related to waters within a reservation or they will be rejected. Section 319 grants may be awarded to Tribes for use outside the reservation only if they fund activities that are related to waters within a reservation, such as those relating to sources upstream of a waterway entering the reservation.

i. Activities That Are Related to Waters Within a Reservation. Section 518(e) of the CWA provides that EPA may treat an Indian Tribe as a State for purposes of section 319 of the CWA if, among other things, "the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are \* \* \* within the borders of an Indian reservation" (see 33 U.S.C. 1377(e)(2)). EPA already awards grants to Tribes under section 106 of the CWA for activities performed outside of a reservation (on condition that the Tribe obtains any necessary access agreements and coordinates with the State, as appropriate) that pertain to reservation waters, such as evaluating impacts of upstream waters on water resources within a reservation. Similarly, EPA has awarded section 106 grants to States to conduct monitoring outside of State borders. EPA has concluded that grants awarded to an Indian Tribe pursuant to section 319 may similarly be used to perform eligible section 319 activities outside of a reservation if: (1) the activity pertains to the management and protection of waters within a reservation; and (2) just as for on-reservation activities, the Tribe meets all other applicable requirements.

ii. Activities That Are Unrelated to Waters of a Reservation. As discussed above, EPA is authorized to award section 319 grants to Tribes to perform eligible section 319 activities if the activities pertain to the management and protection of waters within a reservation and the Tribe meets all other applicable requirements. In contrast, EPA is not authorized to award section 319 grants for activities that do not pertain to waters of a reservation. For off-reservation areas, including "usual and accustomed" hunting, fishing, and

gathering places, EPA must determine whether the activities pertain to waters of a reservation prior to awarding a grant.

d. All work plans must address one of the following four factors:

i. The work plan develops a watershed-based plan and implements a watershed-based plan;

ii. The work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan);

iii. The work plan implements a watershed-based plan; or

iv. The work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis.

e. All work plans must be consistent with the Tribe's approved NPS management program and conform to legal requirements that are applicable to all environmental program grants awarded to Tribes (see 40 CFR 35.507 and 35.515) as well as the legal requirements that specifically apply to NPS management grants (see 40 CFR 35.638). As provided in those regulations, and in accordance with EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*, all work plans must include:

i. Description of each significant category of NPS activity to be addressed;

ii. Work plan components;

iii. Work plan commitments for each work plan component, including anticipated environmental outputs and outcomes (as required by EPA Order 5700.7) and the applicant's plan for tracking and measuring its progress towards achieving the expected outputs and outcomes including those identified in section B.I of this RFP;

iv. Estimated funding amounts for each work plan component;

v. Estimated work years for each work plan component;

vi. Roles and responsibilities of the recipient and EPA in carrying out the work plan commitments;

vii. Reporting schedule and a description of the performance evaluation process that will be used that accounts for: (a) A discussion of accomplishments as measured against work plan commitments and anticipated environmental outputs and outcomes; (b) a discussion of the cumulative effectiveness of the work performed under all work plan components; (c) a discussion of existing and potential problem areas; and (d) suggestions for improvement, including, where feasible, schedules for making improvements; and

viii. Description of past performance on reporting environmental results, including a description of Federally funded assistance agreements performed within the last 3 years (no more than 5 agreements, and preferably EPA agreements) and how progress towards achieving the expected results (i.e., outputs and outcomes) under those agreements was documented and/or reported. If there was no progress, please indicate whether, and how, this was documented. If information on relevant or available environmental results past performance does not exist, please indicate this in the proposal and a neutral score will be given for this factor under Section B.V.

f. Except as stated above in sections B.III.3.d and B.III.3.e, proposals must *substantially* comply with the proposal submission instructions and requirements set forth below in section B.IV of this announcement or they will be rejected.

g. Proposals submitted in hard copy must be received by the appropriate EPA Regional Tribal NPS Coordinator (identified in section B.VII) or received electronically through Grants.gov on or before the submission closing date and time published in section B.IV.3. EPA will not accept faxed or e-mail submissions and they will be rejected from consideration. Proposals received after the published closing date and time will be returned to the sender without further consideration.

#### IV. Application and Submission Information

EPA will respond to questions from individual applicants regarding threshold eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification about this announcement. Questions must be submitted before December 5, 2006 in writing to the appropriate EPA Regional Tribal NPS Coordinator and written responses will be posted on EPA's Web site at <http://www.epa.gov/owow/nps/tribal>. In accordance with EPA's Competition Policy (EPA Order 5700.5A1), EPA staff will not meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. Applicants are responsible for the contents of their proposals.

##### 1. Address to Request Application Package

Grant application forms, including SF 424s, are available at [http://www.epa.gov/ogd/grants/how\\_to\\_apply.htm](http://www.epa.gov/ogd/grants/how_to_apply.htm) and by mail upon

request by calling the EPA Headquarters Grants Administration Division at (202) 564-5320. Tribes may also contact their EPA Regional Tribal NPS Coordinator for further information about the application process (see section B.VII for Agency contact information).

##### 2. Content and Form of Application Submission

You may submit either a hard copy proposal or an electronic proposal through <http://www.grants.gov> (but not both) for this announcement. If you submit a hard copy proposal, you have the option to submit it by express delivery service, hand delivery, or courier service. EPA will not accept faxed submissions and they will be rejected from consideration. If you submit a hard copy proposal, you are encouraged (not required) to include with it a CD with the electronic version of the narrative work plan. If you submit your proposal electronically, it must be submitted through <http://www.grants.gov>. EPA will not accept submissions by e-mail and they will be rejected from consideration.

All proposal packages, regardless of how submitted, must include the following documents:

- a. Complete narrative work plan addressing the requirements described above in sections B.III.3.d and B.III.3.e.
- b. Signed SF 424.
- c. Any supplemental information, if applicable, relating to:
  - i. Eligibility (e.g., adequate documentation to demonstrate eligibility of intertribal consortium);
  - ii. Documentation of a finding from the Region that the watershed-based plan to be implemented includes the nine components identified in Attachment A (if the work plan includes a component to implement a watershed-based plan); and
  - iii. Any other supplemental information that may be relevant or applicable to the proposal.

##### 3. Submission Dates and Times for Proposals for Competitive Funding

If you submit a hard copy proposal, the appropriate EPA Regional Tribal NPS Coordinator must receive the signed SF 424, work plan, and any other supplemental information that may be relevant or applicable to the proposal by 5 p.m. local time on December 19, 2006 (see section B.VII for Agency contact information). If you submit your proposal electronically through <http://www.grants.gov>, you must meet the requirements for electronic submission outlined in section B.IV.6 below and your proposal must be received through <http://www.grants.gov> no later than

11:59 p.m. Eastern Standard Time on December 19, 2006. Any hard copy or electronic proposals received after the due date and time will not be considered for funding.

##### 4. Funding Restrictions

The use of competitive funding for the development of a watershed-based plan will be limited to 20 percent of the total competitive grant (e.g., up to \$30,000 of a \$150,000 grant) to assure that these competitive funds are primarily focused on implementation activities. If a Tribe submits a work plan to develop a watershed-based plan, it must be submitted as a component of the overall work plan for implementing a watershed project (i.e., a Tribe will not receive competitive funding only for the development of a watershed-based plan).

##### 5. Confidential Business Information

In accordance with 40 CFR 2.203, applicants may claim all or a portion of their proposal as confidential business information. EPA will evaluate confidentiality claims in accordance with 40 CFR part 2. Applicants must clearly mark proposals or portions of proposals they claim as confidential. If no claim of confidentiality is made, EPA is not required to make the inquiry to the applicant otherwise required by 40 CFR 2.204(c)(2) prior to disclosure.

##### 6. Submission Instructions for Electronic Applications Using Grants.gov

In lieu of hard copy submission, you may submit the proposal electronically through <http://www.grants.gov> as explained below. The electronic submission of your proposal must be made by an official representative of your institution who is registered with Grants.gov and is authorized to sign applications for Federal assistance. For more information, go to <http://www.grants.gov> and click on "Get Registered" on the left side of the page. *Note that the registration process may take a week or longer to complete.* If your organization is not currently registered with Grants.gov, please encourage your office to designate an Authorized Organizational Representative (AOR) and ask that individual to begin the registration process as soon as possible.

To begin the application process under this grant announcement, go to [www.grants.gov](http://www.grants.gov) and click on the "Apply for Grants" tab on the left side of the page. Then click on "Apply Step 1: Download a Grant Application Package and Instructions" to download the PureEdge viewer and obtain the

application package for the announcement. To download the PureEdge viewer click on the "PureEdge Viewer" link. Once you have downloaded the viewer, you may retrieve the application package by entering the Funding Opportunity Number, EPA-OW-OWOW-07-1, or the CFDA number that applies to the announcement (CFDA 66.460). You may also be able to access the application package by clicking on the button "How To Apply" at the top right of the synopsis page for this announcement on <http://www.grants.gov> (to find the synopsis page, go to <http://www.grants.gov> and click on the "Find Grants Opportunities" button on the left side of the page and then go to Search Opportunities and use the Browse by Agency feature to find EPA opportunities).

**Proposal Submission Deadline:** Your organization's AOR must submit your complete proposal electronically to EPA through Grants.gov (<http://www.grants.gov>) no later than 11:59 p.m. Eastern Standard Time on December 19, 2006.

#### *Proposal Materials*

The application package *must* include the following materials:

a. **Signed SF 424.** Complete the form. There are no attachments. Please be sure to include organization fax number and e-mail address in Block 5 of the signed SF 424.

b. **Narrative Work Plan.** The work plan must include the components set forth in sections B.III.3.d and B.III.3.e of this RFP and will be evaluated based on the selection criteria set forth in section B.V.1 of this announcement. Applicants who elect to use <http://www.grants.gov> to apply will need to refer to sections B.III.3.d and B.III.3.e of this RFP when preparing the work plan.

c. **Supplemental Information.** The work plan may include additional required information, if applicable, relating to:

- i. Eligibility (e.g., adequate documentation to demonstrate eligibility of intertribal consortium);
- ii. Documentation of a finding from the Region that the watershed-based plan to be implemented includes the nine components identified in Attachment A (if the work plan includes a component to implement a watershed-based plan); and
- iii. Any other supplemental information that may be relevant or applicable to the proposal.

#### *Application Preparation and Submission Instructions*

Documents a and b listed under Proposal Materials above should appear in the "Mandatory Documents" box on the Grants.gov Grant Application Package page.

For document a, click on the SF 424 form and then click "Open Form" below the box. The fields that must be completed will be highlighted in yellow. Optional fields and completed fields will be displayed in white. If you enter an invalid response or incomplete information in a field, you will receive an error message. When you have finished filling out the form, click "Save." When you return to the electronic Grant Application Package page, click on the form you just completed, and then click on the box that says, "Move Form to Submission List." This action will move the document over to the box that says, "Mandatory Completed Documents for Submission."

For document b, you will need to attach electronic files. Prepare your work plan as described in sections B.III.3.d and B.III.3.e of the RFP and save it to your computer as an MS Word, PDF, or WordPerfect file. When you are ready to attach your work plan to the application package, click on "Project Narrative Attachment Form," and open the form. Click "Add Mandatory Project Narrative File," and then attach your work plan (previously saved to your computer) using the browse window that appears. You may then click "View Mandatory Project Narrative File" to view it. Enter a brief descriptive title of your project in the space beside "Mandatory Project Narrative File Filename;" the file name should be no more than 40 characters long. If there are other attachments that you would like to submit to accompany your proposal (e.g., the supplemental information described above), you may click "Add Optional Project Narrative File" and proceed as before. When you have finished attaching the necessary documents, click "Close Form." When you return to the "Grant Application Package" page, select the "Project Narrative Attachment Form" and click "Move Form to Submission List." The form should now appear in the box that says, "Mandatory Completed Documents for Submission."

Once you have finished filling out all of the forms/attachments and they appear in one of the "Completed Documents for Submission" boxes, click the "Save" button that appears at the top of the Web page. It is suggested that you save the document a second time,

using a different name, since this will make it easier to submit an amended package later if necessary. Please use the following format when saving your file: "Applicant Name—FY07 Tribal 319 Competitive Grants—1st Submission" or "Applicant Name—FY07 Tribal 319 Competitive Grants—Back-up Submission." If it becomes necessary to submit an amended package at a later date, then the name of the 2nd submission should be changed to "Applicant Name—FY07 Tribal 319 Competitive Grants—2nd Submission."

Once your application package has been completed and saved, send it to your AOR for submission to U.S. EPA through Grants.gov. Please advise your AOR to close all other software programs before attempting to submit the application package through Grants.gov.

In the "Application Filing Name" box, your AOR should enter your organization's name (abbreviate where possible), the fiscal year (e.g., FY07), and the grant category (e.g., Tribal 319 Grants). The filing name should not exceed 40 characters. From the "Grant Application Package" page, your AOR may submit the application package by clicking the "Submit" button that appears at the top of the page. The AOR will then be asked to verify the agency and funding opportunity number for which the application package is being submitted. If problems are encountered during the submission process, the AOR should reboot his/her computer before trying to submit the application package again. [It may be necessary to turn off the computer (not just restart it) before attempting to submit the package again.] If the AOR continues to experience submission problems, he/she may contact Grants.gov for assistance by phone at 1-800-518-4726 or e-mail at <http://www.grants.gov/help/help.jsp> or contact Andrea Matzke, EPA Headquarters, at 202-566-1155 or by e-mail at [matzke.andrea@epa.gov](mailto:matzke.andrea@epa.gov).

Proposal packages submitted through Grants.gov will be time/date stamped electronically.

If you have not received a confirmation of receipt from EPA (not from Grants.gov) within 15 calendar days of the proposal deadline, please contact Andrea Matzke, EPA Headquarters, at 202-566-1155 or by e-mail at [matzke.andrea@epa.gov](mailto:matzke.andrea@epa.gov). Failure to do so may result in your proposal not being reviewed.

## V. Application Review Information

### 1. Selection Criteria for Competitive Grants

Tribes submitting proposals for competitive grants must comply with all of the threshold evaluation criteria described in section B.III.3 of this RFP in order to be considered for further evaluation under this section. The EPA Regional Tribal NPS Coordinator will determine whether the proposals comply with the threshold evaluation criteria, and will forward work plans that meet the threshold evaluation criteria to EPA Headquarters NPS Control Branch for distribution to EPA's Watershed Project Review Committee. Work plans that do not comply with the threshold evaluation criteria will be rejected and not evaluated under this section.

EPA's Watershed Project Review Committee will evaluate work plans by assigning a value of 0 to 5 (with 5 being highest) for each factor described below based upon how well the following list of specific elements are addressed and represented in the work plan. Each factor has been assigned a specific weight which will be multiplied (by a value of 0 to 5) to calculate a total point score for the particular factor. The scores for each factor are then combined to result in a total score for the overall work plan—the total maximum score available is 825.

EPA's Watershed Project Review Committee will evaluate work plans for competitive grants based upon the following evaluation factors (and corresponding weights):

*a. The extent, and quality, to which the subcategories of NPS pollution are identified and described. (Weight = 15; 75 points maximum.)* The work plan will be evaluated based upon the extent, and quality, to which it identifies each significant subcategory of NPS pollution. Since identifying the categories of NPS pollution (e.g., agriculture) is a threshold evaluation criteria, the work plan will be evaluated based upon how well it identifies sources at the subcategory level with estimates of the extent to which these subcategories are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).

*b. The extent, and quality, to which the water quality problems or threats to be addressed are identified and described. (Weight = 15; 75 points*

*maximum.)* The work plan will be evaluated based upon the extent, and quality, to which it identifies each water quality problem or threat to be addressed caused by the subcategories of NPS pollution identified in evaluation factor (a) above. EPA encourages Tribes to incorporate specific descriptions of water quality problems or threats, for example, in relation to impairments to water quality standards or other parameters that indicate stream health (e.g., decreases in fish or macroinvertebrate counts).

*c. The extent, and quality, to which the goals and objectives of the project specifically identify the project location and activities to be implemented. (Weight = 20; 100 points maximum.)*

The work plan will be evaluated based upon how well it specifically identifies where the NPS project will take place and the waterbody affected by the NPS pollutants; and the level of detail provided in relation to the specific activities that will be implemented (e.g., identifies specific management measures and practices to be implemented).

*d. The extent to which significant water quality benefits will be achieved as a result of the project. (Weight = 20; 100 points maximum.)* The work plan will be evaluated based upon the extent to which it describes how significant water quality benefits will be achieved as a result of the project, either through restoring NPS-impaired waters or addressing threats to unimpaired waters. EPA encourages Tribes to incorporate specific water quality-based goals that are linked to: load reductions; water quality standards for one or more pollutants/uses; NPS total maximum daily load allocations; measurable, in-stream reductions in a pollutant; or improvements in a parameter that indicates stream health (e.g., increases in fish or macroinvertebrate counts). If information is not available to make specific estimates, water quality-based goals may include narrative descriptions and best professional judgment based on existing information.

*e. The specificity of the budget in relation to each work plan component. (Weight = 15; 75 points maximum.)* The work plan will be evaluated based upon the level of specificity of the budget in relation to each work plan component, and the extent to which it outlines the total operational and construction costs of the project (including match). Budget categories may include, but are not limited to, the following items: personnel; travel; equipment; supplies; contractual; and construction costs.

*f. The level of detail in relation to the schedule for achieving the activities*

*identified in the work plan. (Weight = 15; 75 points maximum.)* The work plan will be evaluated based upon the level of detail and clarity that it includes in relation to the schedule of activities for each work plan component. Such information includes, but is not limited to, the following: Identifies a specific "start" and "end" date for each work plan component; an estimate of the specific work years for each work plan component; and interim milestone dates for achieving each work plan component. A work plan that includes a schedule that can be implemented with minimal delay upon the award of the grant (i.e., indicates a "readiness to proceed") will score higher than work plans which may require significant further action before the project can be implemented.

*g. The extent to which the roles and responsibilities of the recipient and project partners in carrying out the work plan activities are specifically identified. (Weight = 15; 75 points maximum.)* The work plan will be evaluated based upon how specifically and clearly it defines the roles and responsibilities of each responsible party in relation to each work plan component, which may include, but is not limited to, the following: defining the specific level of effort for the responsible parties for each work plan component; identifying parties who will take the lead in carrying out the work plan commitments; and identifying other programs, parties, and agencies that will provide additional technical and/or financial assistance.

*h. The extent to which the performance evaluation process meets each of the following sub-criteria: (Weight = 15; 75 points maximum.)*

(i) Extent and quality to which the work plan demonstrates potential environmental results (i.e., whether the project will result in the protection of water resources), anticipated outputs and outcomes, and how the outcomes are linked to EPA's Strategic Plan. (Value = 2 points maximum.)

(ii) Extent and quality to which the work plan demonstrates a sound plan for measuring progress toward achieving the expected outputs and outcomes (examples of outputs and outcomes can be found in section B.I of this announcement). (Value = 1 point maximum.)

(iii) Extent and quality to which the applicant adequately documented and/or reported on progress towards achieving the expected results (e.g., outputs and outcomes) under Federal agency assistance agreements performed within the last 3 years, and if such progress was not being made, whether

the applicant adequately documented and/or reported why not. (Value = 2 points maximum.)

**Note:** In evaluating applicants under (iii) above, EPA will consider the information provided by the applicant and may also consider relevant programmatic information from other sources including Agency files and prior/current grantors (e.g., to verify and/or supplement the information supplied by the applicant). Applicants with no relevant or available past performance reporting history will not be penalized for absence of this information (and will receive 1 point for this factor).

*i. The extent, and quality, to which the work plan addresses one of the following four factors. (Weight = 35; 175 points maximum.)*

(i) The work plan develops a watershed-based plan and implements a watershed-based plan.

If a work plan includes a plan to develop a watershed-based plan, it will be evaluated based on the extent to which it: Includes a commitment to incorporate the nine components of a watershed-based plan described in Attachment A; clearly identifies the geographical coverage of the watershed; includes a specific schedule for developing the watershed-based plan; and clearly identifies the estimated funds that will be used to develop the watershed-based plan (not to exceed 20 percent of the total competitive grant).

If a Tribe submits a work plan to implement a watershed-based plan, it will be evaluated based on the extent to which it: is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in Attachment A; identifies and briefly summarizes the watershed-based plan that will be implemented; and describes how the work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

(ii) The proposed work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan).

If a work plan includes a plan to develop a watershed-based plan, it will be evaluated based on the extent to which it: Includes a commitment to incorporate the nine components of a watershed-based plan described in Attachment A; clearly identifies the geographical coverage of the watershed; includes a specific schedule for developing the watershed-based plan; and clearly identifies the estimated funds that will be used to develop the

watershed-based plan (not to exceed 20 percent of the total competitive grant).

If a work plan is designed to implement a watershed project that is not implementing a watershed-based plan, it will be evaluated based on the extent to which it can be linked to or expanded upon to address NPS impairments or threats on a watershed-wide basis. For example, a work plan that sets a precedent for future implementation on a watershed-basis will be ranked higher than a work plan that implements an individual demonstration project designed to address an individual threat or problem.

(iii) The work plan implements a watershed-based plan.

If a Tribe submits a work plan to implement a watershed-based plan, it will be evaluated based on the extent to which it: is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in Attachment A; identifies and briefly summarizes the watershed-based plan that will be implemented; and describes how the work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

(iv) The work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis.

If a work plan is designed to implement a watershed project that is not implementing a watershed-based plan, it will be evaluated based on the extent to which it can be linked to or expanded upon to address NPS impairments or threats on a watershed-wide basis. For example, a work plan that sets a precedent for future implementation on a watershed-basis will be ranked higher than a work plan that implements an individual demonstration project designed to address an individual threat or problem.

## 2. Review and Selection Process for Competitive Funding

The EPA Regional Tribal NPS Coordinators will determine whether the proposals comply with the threshold evaluation criteria described in section B.III.3. The EPA Regional Tribal NPS Coordinator will notify applicants who do not meet the threshold eligibility criteria within 15 calendar days of EPA's decision on applicant eligibility. The EPA Regional Tribal NPS Coordinators will forward those work plans that meet the threshold evaluation criteria to EPA Headquarters NPS

Control Branch by approximately January 12, 2007.

EPA will establish a Watershed Project Review Committee (Committee) comprised of 9 EPA staff, including 3 EPA Regional State NPS Coordinators, 3 EPA Regional Tribal NPS Coordinators, 2 staff members of the EPA Headquarters NPS Control Branch, and 1 staff member of EPA's American Indian Environmental Office.

EPA Headquarters NPS Control Branch will forward copies of the work plans for competitive funding to the Committee and hold a conference call with the Committee on or around January 19, 2007, to ensure that all Committee members fully understand how to objectively and consistently apply the criteria discussed above. Scores for each work plan will be developed by each Committee member based on evaluating the work plans against the factors identified above in accordance with the weighting system described in section B.V.1.

On or around February 16, 2007, each Committee member will forward the scores for each work plan to EPA Headquarters NPS Control Branch. Based on these scores, EPA Headquarters NPS Control Branch will calculate the average score for each work plan and then rank the work plans based on the resulting average scores. On or around February 23, 2007, EPA Headquarters NPS Control Branch will send the resulting average scores and rankings to the Committee and hold a conference call to provide a final opportunity for members of the Committee to discuss the rankings based on the average scores. The Committee will then make funding recommendations to EPA Headquarters NPS Control Branch; in making the funding recommendations, in addition to considering the rankings, the Committee may also give priority consideration to high quality work plans that are designed to develop and/or implement a watershed-based plan. EPA Headquarters NPS Control Branch then will make the final funding decisions based on the Committee's recommendations.

The Committee will use the following "Competitive Work Plan Evaluation Review Sheet" to score and rank work plans in accordance with the evaluation criteria discussed above.

## Competitive Work Plan Evaluation Review Sheet

Tribe Name \_\_\_\_\_  
Reviewer \_\_\_\_\_

(Weight × Value = Score) (Value: 0 is Lowest; 5 is Highest) (Maximum "Max" Score is 825)

1. Assign a value of 0 to 5 for each evaluation factor (*refer to section B.V.1 for further description of each factor*). Use only whole numbers.

2. Multiply the value by the designated weight to develop a score for each evaluation factor (the maximum score for each factor is shown in the score box).

3. Add the score for each evaluation factor to calculate the total score at the end.

Weight	Evaluation factors	Value (max)	Score (max)
15 .....	(1) The extent, and quality, to which the subcategories of NPS pollution are identified and described. COMMENTS (strengths, weaknesses):	5	75
15 .....	(2) The extent, and quality, to which the water quality problems or threats to be addressed are identified and described. COMMENTS (strengths, weaknesses):	5	75
20 .....	(3) The extent, and quality, to which the goals and objectives of the project specifically identify the project location and activities to be implemented. COMMENTS (strengths, weaknesses):	5	100
20 .....	(4) The extent to which significant water quality benefits will be achieved as a result of the project. COMMENTS (strengths, weaknesses):	5	100
15 .....	(5) The specificity of the budget in relation to each work plan component ..... COMMENTS (strengths, weaknesses):	5	75
15 .....	(6) The level of detail in relation to the schedule for achieving the activities identified in the work plan. COMMENTS (strengths, weaknesses):	5	75
15 .....	(7) The extent to which the roles and responsibilities of the recipient and project partners in carrying out the work plan activities are specifically identified. COMMENTS (strengths, weaknesses):	5	75
15 .....	(8) The extent to which the performance evaluation process meets each sub-criteria: Demonstrates environmental results, anticipated outputs and outcomes, and how outcomes are linked to EPA's Strategic Plan. (Value = 2 points maximum.) (b) Demonstrates a sound plan for measuring progress towards achieving expected outcomes and outputs. (Value = 1 point maximum.) (c) Documentation of progress towards achieving expected results under Federal agency assistance agreements within last 3 years. (Value = 2 points maximum.) Note: Applicants with no relevant or available past performance reporting history will not be penalized for absence of this information (and will receive 1 point for this factor). COMMENTS (strengths, weaknesses):	5	75
35 .....	(9) The extent, and quality, to which the work plan addresses one of the following four factors: (a) The work plan develops a watershed-based plan and implements a watershed-based plan. (b) The work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan). (c) The work plan implements a watershed-based plan. (d) The work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis. COMMENTS (strengths, weaknesses):	5	175
Total Maximum Score .....		825	

### 3. Anticipated Selection Date

On or around March 5, 2007, EPA Headquarters NPS Control Branch will select the proposals for award and announce to the Regions which Tribes' proposals have been selected for competitive funding.

#### VI. Award Administration Information

##### 1. Award Notices

Following final selections, all applicants will be notified regarding their proposal's status.

a. EPA anticipates notification to *successful* applicant(s) will be made by

the appropriate EPA Regional Tribal NPS Coordinator via e-mail or U.S. Postal Mail on or around March 5, 2007. This notification, which advises that the applicant's proposal has been selected and is being recommended for award, is not an authorization to begin performance. The award notice signed by the EPA Award Official is the authorizing document and will be provided through U.S. Postal Mail. At a minimum, this process can take 90 days from the date of selection notification. EPA reserves the right to negotiate and/or adjust the final grant amount and work plan prior to award, as appropriate

and consistent with Agency policy including the Assistance Agreement Competition Policy, EPA Order 5700.5A1. In addition, successful applicants will be required to certify that they have not been Debarred or Suspended from participation in Federal assistance awards in accordance with 40 CFR part 32.

b. EPA anticipates notification to *unsuccessful* applicant(s) will be made by the appropriate EPA Regional Tribal NPS Coordinator via e-mail or U.S. Postal Mail within 15 calendar days after final selection of successful applicants. The notification will be sent

to the authorization official of the proposal.

c. The appropriate EPA Regional Tribal NPS Coordinator will notify applicants who do not meet the threshold eligibility criteria under section B.III.3 via e-mail or U.S. Postal Mail within 15 calendar days of EPA's decision on applicant eligibility.

## 2. Administrative and National Policy Requirements

a. *Grant Requirements.* A listing and description of general EPA regulations applicable to the award of assistance agreements may be viewed at [http://www.epa.gov/ogd/AppKit/applicable\\_epa\\_regulations\\_and\\_description.htm](http://www.epa.gov/ogd/AppKit/applicable_epa_regulations_and_description.htm).

All applicable legal requirements including, but not limited to, EPA's regulations on environmental program grants for Tribes (see 40 CFR 35.500 to 35.735) and regulations specific to NPS grants for Tribes (see 40 CFR 35.630 to 35.638), apply to all section 319 grants.

b. *Dun and Bradstreet Number.* All applicants are required to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for a Federal grant or cooperative agreement. Applicants can receive a DUNS number, at no cost, by calling the dedicated tollfree DUNS Number request line at 1-866-705-5711, or visiting the D&B Web site at: <http://www.dnb.com>.

c. *Administrative Costs.* Pursuant to CWA section 319(h)(12), administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10 percent of the grant award. The costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation.

d. *Satisfactory Progress.* For a Tribe that received section 319 funds in the preceding fiscal year, section 319(h)(8) of the CWA requires that the Region determine whether the Tribe made "satisfactory progress" during the previous fiscal year in meeting the schedule of activities specified in its approved NPS management program in order to receive section 319 funding in the current fiscal year. The Region will base this determination on an examination of Tribal activities, reports, reviews, and other documents and discussions with the Tribe in the previous year. Regions must include in each section 319 grant award (or in a separate document, such as the grant-issuance cover letter, that is signed by the same EPA official who signs the

grant), a written determination that the Tribe has made satisfactory progress during the previous fiscal year in meeting the schedule of milestones specified in its NPS management program. The Regions must include brief explanations that support their determinations.

e. *Operation and Maintenance.* Each section 319 grant must contain a condition requiring that the Tribe assure that any management practices implemented for the project be properly operated and maintained for the intended purposes during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. Management practices and projects that are damaged or destroyed due to a natural disaster (i.e., earthquakes, storm events, floods, etc.) or events beyond the control of the grantee are exempt from this condition.

The condition must require the Tribe to assure that any subrecipient of section 319 funds similarly include the same condition in the subaward. Additionally, such condition must reserve the right of EPA and the Tribe, respectively, to conduct periodic inspections during the life span of the project to ensure that operation and maintenance are occurring, and shall state that, if it is determined that participants are not operating and maintaining practices in an appropriate manner, EPA or the Tribe, respectively, will request a refund for the project supported by the grant.

The life span of a project will be determined on a case-by-case basis, tailored to the types of practices expected to be funded in a particular project, and should be specified in the grant condition. For assistance in determining the appropriate life span of the project, Tribes may wish to examine other programs implementing similar practices, such as the U.S. Department of Agriculture's conservation programs. For example, for conservation practices, it may be appropriate to construct the life span consistent with the life span for similar conservation practices as determined by the Commodity Credit Corporation (pursuant to the implementation of the Environmental Quality Incentives Program). Following the approach used in many Federal funding programs, practices will generally be operated and maintained for a period of at least 5 to 10 years.

f. In making grant awards to Tribes who are part of an intertribal consortia, Regions must include a brief finding in the final award package that the Tribe has demonstrated the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant.

g. In making grant awards to Tribes that provide for a reduced match requirement, Regions must include a brief finding in the final award package that the Tribe has demonstrated that it does not have adequate funds to meet the required match.

## 3. Reporting

As provided in 40 CFR 31.40, 31.41, 35.507, 35.515, and 35.638, all section 319 grants must include a set of reporting requirements and a process for evaluating performance. Some of these requirements have been explicitly incorporated into the required work plan components that all Tribes must include in order to receive section 319 grant funding.

The work plan components required for section 319 funding, specifically those relating to work plan commitments and timeframes for their accomplishment, facilitate the management and oversight of Tribal grants by providing specific activities and outputs by which progress can be monitored. The performance evaluation process and reporting schedule (both work plan components) also establish a formal process by which accomplishments can be measured. Additionally, the satisfactory progress determination (for Tribes that received section 319 funding in the preceding fiscal year) helps ensure that Tribes are making progress in achieving the goals in their NPS management programs.

Regions will ensure that the required evaluations are performed according to the negotiated schedule (at least annually) and that copies of the performance evaluation reports are placed in the official files and provided to the recipient.

## 4. Dispute Resolution

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR 3629, 3630 (January 26, 2005) which can be found at <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-1371.htm>. Copies of these procedures may also be requested by contacting the EPA Regional Tribal NPS Coordinator listed in section B.VII below.



**VII. Agency Contacts: EPA Headquarters and Regional Tribal NPS Coordinators**

**EPA Headquarters**—Andrea Matzke, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division, telephone: 202-566-1155; e-mail: [matzke.andrea@epa.gov](mailto:matzke.andrea@epa.gov).

**Region I**—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Warren Howard; mailing address: U.S. EPA Region I, 1 Congress Street, Suite 1100, Boston, MA 02203; telephone: 617-918-1587; e-mail: [howard.warren@epa.gov](mailto:howard.warren@epa.gov).

**Region II**—New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Donna Somboonlakana; mailing address: U.S. EPA Region II, 290 Broadway—24th Floor (MC DEPP:WPB), New York, NY 10007; telephone: 212-637-3700; e-mail: [somboonlakana.donna@epa.gov](mailto:somboonlakana.donna@epa.gov).

**Region III**—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, DC

Fred Suffian; mailing address: U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103; telephone: 215-814-5753; e-mail: [suffian.fred@epa.gov](mailto:suffian.fred@epa.gov).

**Region IV**—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Yolanda Brown; mailing address: U.S. EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303; telephone: 404-562-9451; e-mail: [brown.yolanda@epa.gov](mailto:brown.yolanda@epa.gov).

**Region V**—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Daniel Cozza; mailing address: U.S. EPA Region V, 77 West Jackson Blvd. (MC: WS-15J), Chicago, IL 60604; telephone: 312-886-7252; e-mail: [cozza.daniel@epa.gov](mailto:cozza.daniel@epa.gov).

**Region VI**—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

George Craft; mailing address: U.S. EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202; telephone: 214-665-6684; e-mail: [craft.george@epa.gov](mailto:craft.george@epa.gov).

**Region VII**—Iowa, Kansas, Missouri, Nebraska

Peter Davis; mailing address: U.S. EPA Region VII, 901 N 5th Street, Kansas City, KS 66101; telephone: 913-551-7372; e-mail: [davis.peter@epa.gov](mailto:davis.peter@epa.gov).

**Region VIII**—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Mitra Jha; mailing address: U.S. EPA Region VIII, 999 18th Street, Suite 300 (MC:

EPR-EP), Denver, CO 80202; telephone: 303-312-6895; e-mail: [jha.mitra@epa.gov](mailto:jha.mitra@epa.gov).

**Region IX**—Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam

Tiffany Eastman; mailing address: U.S. EPA Region IX, 75 Hawthorne Street (MC: WTR-10), San Francisco, CA 94105; telephone: 1-800-735-2922, relay #415-972-3404; e-mail: [eastman.tiffany@epa.gov](mailto:eastman.tiffany@epa.gov).

**Region X**—Alaska, Idaho, Oregon, Washington

Susan Ennes; mailing address: U.S. EPA Region X, 1200 6th Avenue (MC: OWW-137), Seattle, WA 98101; telephone: 206-553-6249; e-mail: [ennes.susan@epa.gov](mailto:ennes.susan@epa.gov).

**VIII. Other Information**

**1. Anticipated Deadlines and Milestones for FY 2008 Competitive Grants**

In future years, EPA intends to post the RFP for competitive grants under section 319 at <http://www.grants.gov> and on EPA's Web site at <http://www.epa.gov/owow/nps/tribal>. The following estimated dates are provided in order to assist Tribes in planning for EPA's FY 2008 funding cycle for competitive grants:

Deadline EPA uses to determine eligibility to receive competitive 319 grants .....	Second Friday in October 2007.
Date for receipt of proposals in hard copy by Region or electronically through Grants.gov .....	December 7, 2007.
Headquarters notifies Regions/Tribes of selections for competitive 319 grants .....	March 3, 2008.
Tribes submit final grant application to Region for competitive 319 grants .....	April 2, 2008.

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

**2. Right to Reject All Proposals.**

EPA reserves the right to reject all proposals and make no award as a result of this announcement, or make fewer awards than anticipated. The EPA Award Official is the only official that can bind the Agency to the expenditure of funds for selected projects resulting from this announcement.

Dated: October 19, 2006.

**Benjamin H. Grumbles**

*Assistant Administrator for Water.*

**Attachment A—Components of a Watershed-Based Plan**

1. An identification of the causes and sources or groups of similar sources that will need to be controlled to achieve the goal identified in element 3 below. Sources that need to be controlled should be identified at the significant subcategory level with estimates of the extent to which they are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops

needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).

2. A description of the NPS management measures that will need to be implemented to achieve a water quality-based goal described in element 3 below, as well as to achieve other watershed goals identified in the watershed-based plan, and an identification (using a map or a description) of the critical areas for which those measures will be needed to implement the plan.

3. An estimate of the water quality-based goals expected to be achieved by implementing the measures described in element 2 above. To the extent possible, estimates should identify specific water quality-based goals, which may incorporate, for example: load reductions; water quality standards for one or more pollutants/uses; NPS total maximum daily load allocations; measurable, in-stream reductions in a pollutant; or improvements in a parameter that indicates stream health (e.g., increases in fish or macroinvertebrate counts). If information is not available to make specific estimates, water quality-based

goals may include narrative descriptions and best professional judgment based on existing information.

4. An estimate of the amounts of technical and financial assistance needed, associated costs, and/or the sources and authorities that will be relied upon to implement the plan. As sources of funding, Tribes should consider other relevant Federal, State, local and private funds that may be available to assist in implementing the plan.

5. An information and education component that will be used to enhance public understanding and encourage early and continued participation in selecting, designing, and implementing the NPS management measures that will be implemented.

6. A schedule for implementing the NPS management measures identified in the plan that is reasonably expeditious.

7. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.

8. A set of criteria that can be used to determine whether the water quality-based goals are being achieved over time and substantial progress is being made

towards attaining water quality-based goals and, if not, the criteria for determining whether the watershed-based plan needs to be revised.

9. A monitoring component to evaluate the effectiveness of the implementation efforts over time, measured against the criteria established under element 8 above.

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2005-0162; FRL-8100-4]

### Carbofuran; Interim Reregistration Eligibility Decision; Extension of Comment Period

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

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a notice in the *Federal Register* of August 30, 2006, concerning the availability of the Interim Reregistration Eligibility Decision for the N-methyl carbamate pesticide carbofuran. This document is extending the comment period for 30 days, from October 30, 2006, to November 30, 2006.

**DATES:** Comments, identified by docket identification (ID) number EPA-HQ-OPP-2005-0162 must be received on or before November 30, 2006.

**ADDRESSES:** Follow the detailed instructions as provided under

**ADDRESSES** in the *Federal Register* document of August 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Plummer, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0076; e-mail address: [plummer.stephanie@epa.gov](mailto:plummer.stephanie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

The Agency included in the notice of August 30, 2006 a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

##### C. How and to Whom Do I Submit Comments?

To submit comments, or access the official public docket, please follow the detailed instructions as provided in **SUPPLEMENTARY INFORMATION** of the August 30, 2006 *Federal Register* document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### II. What Action is EPA Taking?

This document extends the public comment period established in the

*Federal Register* of August 30, 2006 (71 FR 51610) (FRL-8088-2). In that document, EPA announced the availability of the Interim Reregistration Eligibility Decision document for the N-methyl carbamate pesticide carbofuran. EPA is hereby extending the comment period, which was set to end on October 30, 2006, to November 30, 2006.

##### III. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA, as amended, directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. Further provisions are made to allow a public comment period. However, the Administrator may extend the comment period, if additional time for comment is requested. In this case, the registrant, FMC, has requested additional time.

##### List of Subjects

Environmental protection, Pesticides and Pests.

Dated: October 18, 2006.

**Debra Edwards,**

*Director, Special Review and Reregistration, Division, Office of Pesticide Programs.*

[FR Doc. E6-17860 Filed 10-24-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2004-0202; FRL-8101-2]

### Pentachloronitrobenzene (PCNB) Reregistration Eligibility Decision (RED); Extension of Comment Period

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

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a notice in the *Federal Register* of August 2, 2006, concerning the availability of the PCNB reregistration eligibility decision (RED) and the opening of the 60-day public comment period on the RED. The original comment period was to close on October 2, 2006. The Agency subsequently issued a notice in the *Federal Register* of September 29, 2006, extending the comment period to November 1, 2006. The Agency is now extending the comment period for an additional interval, to **December 4, 2006**.

**DATES:** Comments, identified by docket identification (ID) number EPA-HQ-