

Environmental Protection Agency

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or Intertribal Consortium for an Indoor Radon program.

(c) The costs of radon measurement equipment or devices (see § 35.820(b)(1)(iv)) and demonstration of radon mitigation, methods, and technologies (see § 35.820(b)(1)(ix)) shall not, in aggregate, exceed 50 percent of a Tribe's or Intertribal Consortium's radon grant award in a fiscal year.

(d) The costs of general overhead and program administration (see § 35.820(b)(1)(vii)) of an indoor radon grant shall not exceed 25 percent of the amount of a Tribe's or Intertribal Consortium's Indoor Radon Grant in a fiscal year.

(e) A Tribe or Intertribal Consortium may use funds for financial assistance to persons only to the extent such assistance is related to demonstration projects or the purchase and analysis of radon measurement devices.

(f) Recipients must provide the Regional Administrator all radon-related information generated in its grant supported activities, including the results of radon surveys, mitigation demonstration projects, and risk communication studies.

(g) Recipients must maintain and make available to the public, a list of firms and individuals that have received a passing rating under the EPA proficiency rating program under section 305(a)(2) of the Act.

(h) Funds appropriated for section 306 may not be used to cover the costs of federal proficiency rating programs under section 305(a)(2) of the Act. Funds appropriated for section 306 and grants awarded under section 306 may be used to cover the costs of the Tribal proficiency rating programs.

TOXIC SUBSTANCES COMPLIANCE MONITORING (SECTION 28)

§ 35.710 Purpose.

(a) *Purpose of section.* Sections 35.710 through 35.715 govern Toxic Substances Compliance Monitoring grants to Tribes and Intertribal Consortia under section 28 of the Toxic Substances Control Act.

(b) *Purpose of program.* Toxic Substances Compliance Monitoring grants are awarded to establish and operate compliance monitoring programs to

prevent or eliminate unreasonable risks to health or the environment associated with chemical substances or mixtures on Tribal lands with respect to which the Administrator is unable or not likely to take action for their prevention or elimination.

(c) *Associated program regulations.* Refer to 40 CFR parts 700 through 799 for associated program regulations.

§ 35.712 Competitive process.

EPA will award Toxic Substances Control Act Compliance Monitoring grants to Tribes or Intertribal Consortia through a competitive process in accordance with national program guidance.

§ 35.713 Eligible recipients.

(a) The Regional Administrator will treat a Tribe or Intertribal Consortium as eligible to apply for a Toxic Substances Compliance Monitoring grant if the Tribe or each member of the Intertribal Consortium:

(1) Is recognized by the Secretary of the Interior;

(2) Has an existing government exercising substantial governmental duties and powers;

(3) Has adequate authority to carry out the grant activities; and,

(4) Is reasonably expected to be capable, in the Regional Administrator's judgment, of administering the grant program.

(b) If the Administrator has previously determined that an Indian Tribe has met the prerequisites in paragraphs (a)(1) and (2) of this section for another EPA program, the Tribe need provide only that information unique to the Toxic Substances Compliance Monitoring grant program required by paragraphs (a)(3) and (4) of this section.

§ 35.715 Maximum federal share.

The Regional Administrator may provide up to 75 percent of the approved work plan costs.

§ 35.718 Award limitation.

If the Toxic Substances Compliance Monitoring grant funds are included in a Performance Partnership Grant, the toxic substances compliance monitoring work plan commitments must

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be included in the Performance Partnership Grant work plan.

HAZARDOUS WASTE MANAGEMENT PROGRAM GRANTS (PUB.L. 105-276)

§ 35.720 Purpose.

(a) *Purpose of section.* Sections 35.720 through 35.725 govern hazardous waste program grants to eligible Tribes and Intertribal Consortia under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub.L. 105-276, 112 Stat. 2461, 2499; 42 U.S.C. 6908a (1998).

(b) *Purpose of program.* Tribal hazardous waste program grants are awarded to assist Tribes and Intertribal Consortia in developing and implementing programs to manage hazardous waste.

§ 35.723 Competitive process.

EPA will award Tribal hazardous waste program grants to Tribes or Intertribal Consortia on a competitive basis in accordance with national program guidance. After the competitive process is complete, the recipient can, at its discretion, accept the award as a Tribal hazardous waste program grant or add the funds to a Performance Partnership Grant. If the recipient chooses to add the funds to a Performance Partnership Grant, the Tribal hazardous waste program work plan commitments must be included in the Performance Partnership Grant work plan.

§ 35.725 Maximum federal share.

The Regional Administrator may provide up to 100 percent of the approved work plan costs.

UNDERGROUND STORAGE TANKS PROGRAM GRANTS (PUB. L. 105-276)

§ 35.730 Purpose.

(a) *Purpose of section.* Section 35.730 through 35.733 govern underground storage tank program grants to eligible Tribes and Intertribal Consortia under Pub.L. 105-276.

(b) *Purpose of program.* Tribal underground storage tank program grants are awarded to assist Tribes and Intertribal Consortia in developing and im-

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plementing programs to manage underground storage tanks.

§ 35.731 Eligible recipients.

Eligible recipients of underground storage tank program grants are Tribes and Intertribal Consortia.

§ 35.732 Basis for allotment.

The Administrator allots underground storage tank program grant funds to each regional office based on applicable EPA guidance. Regional offices award funds to Tribes and Intertribal Consortia based on their programmatic needs and applicable EPA guidance.

§ 35.735 Maximum federal share.

The Regional Administrator may provide up to 100 percent of the approved work plan costs.

TRIBAL RESPONSE PROGRAM GRANTS (CERCLA SECTION 128(A))

SOURCE: 74 FR 28444, June 16, 2009, unless otherwise noted.

§ 35.736 Purpose.

(a) *Purpose of section.* Sections 35.736 through 35.738 govern Tribal Response Program Grants (as defined in section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

(b) *Purpose of program.* Tribal Response Program Grants are awarded to Tribes to establish or enhance the response program of the Tribe; capitalize a revolving loan fund for brownfield remediation under section 104(k)(3) of CERCLA; or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a Tribal response program.

§ 35.737 Basis for allotment.

The Administrator allots response program funds to each EPA regional office. Regional Administrators award funds to Tribes based on their programmatic needs and applicable EPA guidance.