

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7803-8]

Performance Partnership Grants**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This action adds three grant programs to the list of environmental grant programs eligible for inclusion in Performance Partnership Grants. The programs to be added are: The Environmental Information Exchange Network grant program; the Multimedia Sector Program grant funds; and the Brownfields grant program (CERCLA section 128(a)). See below for specific details on each program being added.

The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134) and the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1998 (Public Law 105-65), authorize EPA to combine categorical grant funds appropriated in EPA's State and Tribal Assistance Grant (STAG) account and award the funds as Performance Partnership Grants (PPGs). Public Law 104-134, states, in relevant part, that: "the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe." Public Law 105-65 amended the PPG authority by authorizing "interstate agencies, tribal consortia, and air pollution control agencies" to receive PPGs. Pursuant to the authority granted in Public Law 104-134 and Public Law 105-65, EPA promulgated PPG regulations in January of 2001 as part of the Agency's revision of 40 CFR part 35, the rules governing categorical environmental program grants. The regulation at 40 CFR 35.133(b) states that: "The Administrator may, in guidance or regulation, describe subsequent additions, deletions, or changes to the list of environmental programs eligible for inclusion in

Performance Partnership Grants." The Environmental Information Exchange Network grant program, the Multimedia Sector Program grants, and the CERCLA section 128(a) grant program are all funded in the same line item that funds categorical grants for "multimedia or single media pollution prevention, control and abatement and related environmental activities" and, therefore, these grant programs are eligible for inclusion in PPGs. This notice is made pursuant to 40 CFR 35.133(b), to inform entities eligible to receive PPGs that the three programs listed above may be included in a PPG subject to any limitations herein defined.

In the fiscal year 2002 Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, Public Law 107-73, EPA was authorized to award grants for the development of the Environmental Information Exchange Network (EIEN). The EIEN grant authority was also included in EPA's fiscal year 2003 and fiscal year 2004 appropriations, Public Laws 108-7 and 108-199, respectively. Heretofore and hereafter, the EIEN grants are eligible for inclusion in PPGs and may be included in a PPG at the request of the appropriate official of an eligible entity, subject to EPA's regulations at 40 CFR part 31 and 40 CFR 35.001-35.138 and 35.500-35.538.

In the fiscal year 2004 Consolidated Appropriations Act, Public Law 108-199, EPA was authorized to expend categorical grant funds "for enforcement and compliance assurance grants," (H.R. 2673 at H12731), referred to as the Multimedia Sector Program grants. EPA's Office of Enforcement and Compliance Assurance manages the funds for the Multimedia Sector Program to assist states and tribes "in developing innovative sector-based, multi-media, or single-media approaches to enforcement and compliance assurance." (EPA's FY 2004 Justification of Appropriations at SA-33). EPA informed Congress that the Agency expects to award these grants under the following grant authorities: Clean Water Act, Section 104; Federal Insecticide, Fungicide, and Rodenticide Act, Section 20; Clean Air Act, Section 103; Solid Waste Disposal Act, Section 8001; Safe Drinking Water Act, Section 1442; Toxic Substances Control Act, Sections 10 and 28; Marine Protection,

Research and Sanctuaries Act, Section 203; and Indian Environmental General Assistance Program Act. (EPA's FY 2004 Justification of Appropriations at SA-33). In addition to these authorities, Congress authorized EPA to award the Multimedia Sector Program grant funds as part of PPGs. Multimedia Sector Program grant funds are hereafter eligible for inclusion in PPGs and may be included in a PPG at the request of the appropriate official of an eligible entity, subject to EPA's regulations at 40 CFR part 31 and 40 CFR 35.001-35.138 and 35.500-35.538.

In the fiscal year 2003 Consolidated Appropriations Resolution, Public Law 108-7, EPA was appropriated funds "for carrying out section 128(a) of CERCLA, as amended." Congress also included funds for CERCLA section 128(a) in EPA's fiscal year 2004 appropriations, Public Law 108-199. EPA Regional Offices are authorized to use CERCLA section 128(a) grant funds to implement a pilot program wherein each region may award fiscal year 2004 CERCLA section 128(a) funds in a PPG for one state and one tribe or tribal consortium. A Regional office may include fiscal year 2004 CERCLA section 128(a) grant funds in a PPG for more than one state and one tribe or tribal consortium with prior approval from the Assistant Administrator, Office of Solid Waste and Emergency Response, and the Associate Administrator, Office of Congressional and Intergovernmental Relations. A limited pilot program is being implemented to allow EPA to work effectively with state and tribal counterparts in tailoring the PPG process to the CERCLA section 128(a) grants. The award of CERCLA section 128(a) funds in PPGs is subject to EPA's regulations at 40 CFR part 31 and 40 CFR 35.001-35.138 and 35.500-35.538.

FOR FURTHER INFORMATION CONTACT: Jack Bowles, Office of Congressional and Intergovernmental Relations, Office of the Administrator, Mail Code 1301, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number, 202-564-7178; fax number, 202-501-1545; e-mail address: bowles.jack@epa.gov.

Dated: August 16, 2004.

Michael O. Leavitt,
Administrator.

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