Nonpoint Source Program And Grants Guidance For Fiscal Year 1997 And Future Years

May 1996

U.S. Environmental Protection Agency

Office of Water

Washington, D.C.

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Dear Colleague letter - Overview

Dear Interested Colleague:

The Office of Water of the U.S. Environmental Protection Agency (EPA) and senior officials of State agencies responsible for managing nonpoint source pollution have developed a new approach to further strengthen State nonpoint source management programs. This new approach builds upon the environmental protection afforded by the yearly national nonpoint source grant program administered under the Clean Water Act, and significantly reduces Federally-imposed administrative requirements.

EPA and State agencies responsible for managing nonpoint source pollution have agreed on a number of important changes to the national guidance EPA uses to support State nonpoint source management programs under section 319 of the Clean Water Act. We are pleased to provide you with a final copy of this new national guidance. This guidance is also available through the Internet at http://www.epa.gov/OWOW.

State nonpoint source management programs have matured considerably since the passage of the 1987 Federal Clean Water Act; experience in many States extends much further back in history. All States have approved nonpoint source programs and by the end of fiscal year 1996 EPA will have provided about $470 million in grants to States to implement these programs. While we are beginning to see environmental progress, Federal and State processes need to be streamlined to increase the effectiveness of nonpoint source management programs and to speed progress towards solving our nonpoint source pollution problems.

Our shared long-term vision is that we implement dynamic, effective nonpoint source programs designed to achieve and maintain beneficial uses of water.

To achieve this vision, EPA and State agencies responsible for managing nonpoint source pollution have adopted these themes for leadership:

- Search for opportunities - look for innovative ways to improve the program.
- Inspire a shared vision - enlist people in the effort.
- Foster collaboration - enable individuals and organizations to act by sharing information and providing choice.
- Create models that can lead the way to broader successes.
- Celebrate accomplishments - recognize contributions that individuals make.
- Emphasize local, watershed-based approaches tailored to needs.

EPA and State cooperative efforts led to several modifications to the nonpoint source grants program early last year. For example, since most States exceeded ground-water targets established in prior nonpoint source grants guidance, EPA dropped these targets for fiscal year 1996. Similarly, targets were dropped for watershed resource restoration projects and national monitoring projects. While EPA and States recognize the continuing importance of these activities, States will be provided maximum flexibility in determining whether or to what extent to apply section 319 funds for these purposes. Each State now has the discretion to use a small portion of its grant to conduct specific nonpoint source-related assessments and to revise and strengthen its nonpoint source management program.

In the enclosed final nonpoint source program and grants guidance for fiscal year 1997 and beyond, EPA and States have moved beyond these initial steps to embrace a new framework for the implementation of State nonpoint source management programs. This is the basic approach:

1. **Upgrade State Programs**. Beginning in late Fiscal Year 1996 and continuing in FY 1997, each State will be encouraged to review its nonpoint source management program and revise it as needed to assure that the program achieves nine key program elements. These nine key elements are described briefly in the Executive Summary of the draft guidance and explained in more detail in Section III-A. A program evaluation guide based on these nine key elements is presented in Appendix A.
2. **Eliminate Competitive Grants**. EPA will no longer use a competitive grants approach, beginning in FY 1997. Using the current allocation formula, EPA will provide a predictable amount of funds to each State contingent upon Congressionally appropriated funding levels.
3. **Streamline Grant Award and Reporting Processes**. States will have greater flexibility for directing section 319 grant funds, consistent with the State's nonpoint source management programs and with Federal law. EPA will also reduce State reporting responsibilities and will speed up grant schedules.
4. **Reform State Oversight by Recognizing "Nonpoint Source Enhanced Benefits States."** Grant award and reporting procedures will be further reduced and streamlined for States that have adopted all nine key program elements and which have a proven track record of effective implementation. Special recognition for Nonpoint Source Enhanced Benefits States will be extended by EPA's Assistant Administrator for Water and Regional Administrators,

and a number of added administrative incentives will be offered. Our goal is that all States will become Nonpoint Source Enhanced Benefits States in a few years.

EPA and State agencies responsible for managing nonpoint pollution will initiate a second, long-term effort to further improve and strengthen State nonpoint source management programs. We will use a consensus-based approach to engage a wide variety of Federal, State, Tribal, local and private-sector partners to agree upon specific ways to help States to implement their new nonpoint source management programs, especially technical tools, assistance, monitoring, and supportive action. We will need your support to succeed.

We hope you share our excitement about this new generation of State nonpoint source management programs. If you have any questions or additional comments about the new direction or about the enclosed guidance, please let us know.

Sincerely,

May 1996

U.S. Environmental Protection Agency

Office of Water

Washington, D.C.

FOREWORD

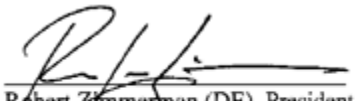
In 1995 and early 1996, senior representatives of State nonpoint source agencies from each of the ten U.S. regions joined with key representatives from the U.S. Environmental Protection Agency in a series of meetings to discuss the future direction of the national nonpoint source program under Section 319 of the Clean Water Act. These highly productive meetings led to a common understanding that the key to significant further progress in nonpoint source control lies in effective State implementation of well-designed, supported and financed State programs.

This guidance represents a major step forward in providing to States the tools and the flexibility needed by States to implement highly effective nonpoint source programs. It recognizes the need for States to review and, where needed, revise their programs to focus on effective solutions to water quality problems caused by nonpoint source pollution. It also provides that, consistent with the maturation of State programs, EPA will no longer use a competitive approach to award a portion of the Section 319 funds.

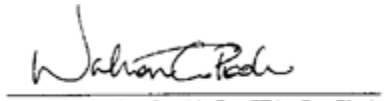
This guidance provides a sound framework for setting the future course of the nonpoint source program. Developed collaboratively by EPA and States, this guidance projects a clear vision of

dynamic and effective State programs that are designed to achieve and maintain beneficial uses of water. It is consistent with the National Environmental Performance Partnership System and provides flexibility to States to manage their nonpoint source programs and resources in the manner that they believe will produce the best environmental results.

We look forward to continuing to work closely with EPA to foster positive working relationships among all our many partners with a stake in clean water. It is our hope and expectation that our efforts will lead to achievement of our common vision of achieving and maintaining beneficial uses of water for the enjoyment of future generations.



Robert Zimmerman (DE), President
Association of State and Interstate
Water Pollution Control
Administrators



Walton C. Poole, Ph.D. (ID), Co-Chair
State/EPA Nonpoint Source
Program Workgroup

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EXECUTIVE SUMMARY

This guidance promotes a new generation of strong partnerships between the U.S. Environmental Protection Agency (EPA) and State lead nonpoint source agencies. Our long-term vision is:

ALL STATES ARE IMPLEMENTING DYNAMIC AND EFFECTIVE NONPOINT SOURCE PROGRAMS DESIGNED TO ACHIEVE AND MAINTAIN BENEFICIAL USES OF WATER.

To achieve this vision, EPA and State nonpoint source lead agencies have agreed upon a new, streamlined framework for the implementation of State nonpoint source programs under section 319 of the Clean Water Act. States and EPA will work together to review, revise and implement enhanced State nonpoint source management programs that apply nine key elements of State programs that have been developed jointly. States will have flexibility to implement their programs in a manner that maximizes their ability to achieve our long-term vision.

Beginning in late Fiscal Year 1996, States will review and, as appropriate, revise nonpoint source management programs to reflect the following nine key elements:

1. Explicit short- and long-term goals, objectives and strategies to protect surface and ground water.
2. Strong working partnerships and collaboration with appropriate State, interstate, Tribal, regional, and local entities (including conservation districts), private sector groups, citizens groups, and Federal agencies.

3. A balanced approach that emphasizes both State-wide nonpoint source programs and on-the ground management of individual watersheds where waters are impaired or threatened.
4. The State program (a) abates known water quality impairments resulting from nonpoint source pollution and (b) prevents significant threats to water quality from present and future activities.
5. An identification of waters and watersheds impaired or threatened by nonpoint source pollution and a process to progressively address these waters.
6. The State reviews, upgrades and implements all program components required by section 319 of the Clean Water Act, and establishes flexible, targeted, iterative approaches to achieve and maintain beneficial uses of water as expeditiously as practicable.
7. An identification of Federal lands and objectives which are not managed consistently with State program objectives.
8. Efficient and effective management and implementation of the State's nonpoint source program, including necessary financial management.
9. A feedback loop whereby the State reviews, evaluates, and revises its nonpoint source assessment and its management program at least every five years.

These key elements of upgraded State nonpoint source management programs are discussed in Section III-A of this guidance and a program evaluation guide based on those nine key elements is presented in Appendix A.

Consistent with States' implementation of stronger programs, beginning in Fiscal Year 1997 EPA will no longer use a competitive approach to award a portion of section 319 funds. Rather, EPA will use the allocation formula presented in Appendix G to determine the amount to be awarded to each State. EPA will also be paring grants application procedures and reporting requirements to the minimum necessary to assure that grant funds are used legally and effectively.

A State which incorporates all nine key elements in its revised nonpoint source management program and which has proven a track record of effective implementation of its nonpoint source programs will be formally recognized by the Regional Administrator and the Assistant Administrator for Water as a Nonpoint Source Enhanced Benefits State. NPS Enhanced Benefits States will be afforded substantially reduced oversight and maximum flexibility to implement their State programs and to achieve water quality objectives. Thus, while EPA has greatly streamlined the section 319 grants program for all States, EPA is providing further flexibility to the Nonpoint Source Enhanced Benefits States with complete programs and proven track records. This additional flexibility is discussed in Section III-B.

It is our goal that within a few years, all or most States will have improved their programs to the extent that they are recognized as Nonpoint Source Enhanced Benefits States.

EPA's role in the nonpoint source program will shift away from grants oversight and administration and towards technical assistance and cooperation to help States implement well-designed nonpoint source management programs. Technical assistance, training, watershed- or community-based projects, cross-border or ecosystem-wide initiatives, and special assistance in working with other

Federal agencies are examples of specific ways in which EPA will collaborate with States to achieve environmental results. Within its resource constraints, EPA will provide more sophisticated assistance such as advanced modeling and monitoring tools and design of high-quality watershed projects. EPA will also help arrange for needed technical assistance in monitoring, modeling and best management practices from other Federal agencies, especially the US Geological Survey, the US Forest Service, the Natural Resources Conservation Service and the Bureau of Land Management. Where necessary and appropriate, EPA will also provide special assistance with Federal agencies where Federal activities may not be consistent with State nonpoint source management programs.

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I. OUR VISION

This guidance promotes a new generation of strong partnerships between the U.S. Environmental Protection Agency (EPA) and State lead nonpoint source agencies. Our long-term vision is:

ALL STATES IMPLEMENT DYNAMIC AND EFFECTIVE NONPOINT SOURCE PROGRAMS DESIGNED TO ACHIEVE AND MAINTAIN BENEFICIAL USES OF WATER.

To achieve this vision, this guidance establishes a new, streamlined framework for the implementation of State nonpoint source management programs under section 319 of the Clean Water Act. States and EPA will work together to revise, approve, and implement enhanced State nonpoint source management programs that apply nine key elements. States will have the freedom to implement their programs in a flexible manner that maximizes their ability to achieve our long-term vision, supported by a reasonably predictable flow of nonpoint source grants from EPA.

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II. INTRODUCTION

A. Background

Congress enacted section 319 of the Clean Water Act in 1987, establishing a national program to control nonpoint sources of water pollution. Nonpoint source pollution is caused by rainfall or snowmelt moving over and through the ground and carrying natural and human-made pollutants into lakes, rivers, streams, wetlands, estuaries, other coastal waters, and ground water. Atmospheric deposition and hydrologic modification are also sources of nonpoint pollution.

Under section 319, States address nonpoint pollution by developing nonpoint source assessment reports that identify nonpoint source pollution problems and the nonpoint sources responsible for

the water quality problems. States also adopt management programs to control nonpoint source pollution and then implement the management programs. Section 319(h) provides for EPA's award of grants to States to help them to implement those management programs. Both the assessment report and management program must be approved by EPA in order for a State to be eligible for section 319(h) funds. All States now have EPA-approved assessment reports and management programs.

Congress appropriated the first section 319 grant funds in Fiscal Year (FY) 1990. On December 1 and 15, 1989, EPA issued interim guidance for awarding FY 1990 grant funds to the States, including an interim planning target formula based on nonpoint source control needs.

After soliciting and obtaining public comment, EPA issued final grant guidance on February 15, 1991.

The 1991 guidance served as the main national guidance for the award of section 319(h) grants in FY 1991 - 1993. On June 24, 1993, EPA published a revised nonpoint source grants guidance to include an expedited schedule for awarding section 319(h) grants, improvements to the process for awarding such grants, and clarifications on reporting and other requirements. This revised guidance served as the basis for nonpoint source grants from FY 1994 to FY 1996.

States, Territories, and Tribes have made substantial progress in tackling high priority nonpoint source water quality problems. Projects that have received funding from section 319 grants have ranged from information and educational programs to the demonstration of innovative technologies and watershed-based approaches to solving water quality problems. With the help of section 319 grants, States have been able to address site- and watershed-specific water quality problems as well as to initiate and maintain State-wide nonpoint source programs.

In recognition of this progress, representatives of EPA and State lead nonpoint source agencies held a series of meetings in 1995 to consider fundamental changes to the nonpoint source program. These meetings reflected the twin premises that given the increasing maturity of State programs, it is timely for the States to review, revise, and implement enhanced nonpoint source management programs, and it is correspondingly appropriate for EPA to provide States with increased flexibility to manage and implement these programs, supported by a streamlined and more efficient grants oversight process.

These meetings led to initial grants policy changes that were announced in a memorandum dated April 7, 1995, which became effective at the beginning of FY 1996. Those changes, which continue to be reflected in this guidance, provide States greater flexibility to use a portion of their grant funds to improve their nonpoint source assessments and upgrade their nonpoint source management programs.

This guidance also continues the policy announced in the April 7, 1995 memorandum that States will now have greater flexibility to set their own priorities. Specifically, several set-asides or separate funding elements that applied in the past are now removed for ground-water protection, watershed

resource restoration, and national nonpoint source monitoring projects. The original purposes of these set asides have been fulfilled or exceeded, so they are no longer necessary.

In subsequent meetings, EPA and State lead nonpoint source agencies considered more fundamental changes to the national nonpoint source program. The results of these efforts are reflected in this guidance.

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B. Scope of This Guidance

This guidance is primarily directed towards nonpoint source management programs and grants administered by State lead nonpoint source agencies designated under section 319 of the Clean Water Act. Territories of the United States are included by the Clean Water Act in the term "States" and are included as States in this guidance.

Properly qualified Native American Tribes may also administer nonpoint source management programs under section 319 of the Clean Water Act. This guidance is not specifically directed to Tribal nonpoint source management programs, however, but may be used for administering section 319 programs and grants with the agreement of EPA and the eligible Tribe. Alternatively, A Tribal Guide to the State Section 319 Nonpoint Source Management Program (USEPA, Office of Water, September 1994) may be used.

This guidance contains two components. First, it establishes a framework for reviewing, revising, and approving enhanced State nonpoint source management programs. Second, it establishes a new framework for the national nonpoint source grants program. This guidance will serve as the basis for State nonpoint source management programs and for the national nonpoint source grants program, beginning in FY 1997. This guidance supersedes and replaces the Nonpoint Source Guidance issued by EPA in December 1987 and the Final Guidance on the Award of Nonpoint Source Grants issued in June 1993.

This national guidance is intended to serve as the basis for a nationally consistent approach for State nonpoint source management programs and grants. Therefore, beginning in FY 1997, Regions will not issue separate, supplemental guidance specifically for State nonpoint source programs or grants. If particular Regional circumstances require additional clarifications on a particular issue, the Region will consult with the affected States and with EPA Headquarters on the appropriate next steps.

As in the past, EPA's policy will be to award all section 319 grants under section 319(h), in lieu of awarding separate grants under section 319(I). Thus this guidance applies to all section 319 grants. This approach will encourage integration of ground-water activities with overall State nonpoint source control programs, while maximizing State flexibility to consider and prioritize all causes and effects of nonpoint sources of water pollution.

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C. Relationship to the National Environmental Performance Partnership System and Performance Partnership Grants

On May 17, 1995, State and EPA leaders signed a "Joint Commitment to Reform Oversight and Create a National Environmental Performance partnership System" (NEPPS). The objective of signing this agreement was to accelerate the transition to a new working relationship between EPA and the States -- one which reflects the advancement made in environmental protection over the preceding two decades by both the States and EPA.

Key goals that this new partnership agreement shares with Performance Partnership Grants (PPG) are: to allow States and EPA to achieve improved environmental results by directing scarce public resources toward the highest priority, highest value activities; to provide States with greater flexibility to achieve those results; to improve public understanding of environmental conditions and choices; and to enhance accountability to the public and taxpayers. Other key goals of the NEPPS partnership agreement are increased reliance on self-management by State programs and a differential approach to oversight that serves as an incentive for State programs to perform well, rewarding strong programs and freeing up federal resources to address problems where State programs need assistance.

This guidance has been drafted to be consistent with the overall framework of The National Environmental Performance Partnership System and Performance Partnership Grants. The nonpoint source program is an eligible grant program in a Performance Partnership Grant. For those States that wish to include the nonpoint source program in their request for a PPG and/or NEPPS Agreement, this guidance should be used as the foundation for substantive discussions on establishing nonpoint source environmental goals and program performance expectations. In particular, States choosing to enter into Environmental Performance Agreements with EPA should address the nine key elements of an effective State nonpoint source program, discussed below, as part of these agreements.

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D. The Watershed Approach and Community-based Environmental Protection

EPA is working to realign its programs to support community-based environmental protection, whereby local stakeholders join forces to plan and implement environmental protection measures that make good sense for the particular conditions found within their communities. For water resources, such community-based environmental protection is frequently embodied in the watershed approach.

The watershed approach is a coordinating framework for environmental management that focuses public and private sector efforts to address the highest priority water-related problems within geographic areas, considering both surface and ground water flow. The watershed approach is commonly characterized by four principles: a) well integrated partnerships, b) a specific geographic focus, c) action driven by environmental objectives and by strong science and data, and d) coordinated priority setting and integrated solutions.

This guidance should be used by EPA and States to help advance the watershed approach and community-based environmental protection as a means for resolving nonpoint source pollution problems and threats. Some States and EPA Regions have historically focussed their nonpoint source programs narrowly on demonstrations, supported by Federal section 319 grants. As States and EPA move away from demonstrations and toward watershed- or community-based nonpoint source programs to solve nonpoint source pollution problems on a much wider scale, this guidance is intended to clarify State and EPA goals and responsibilities and to hasten the change in focus.

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E. Relationship to Other Environmental Protection Programs

The goal of national and State nonpoint source programs is to achieve and maintain beneficial uses of water. EPA and the States recognize that, to achieve this goal, EPA's and States' nonpoint source programs must be well integrated with other environmental and natural resource management programs. These programs include point source programs, particularly with respect to common and overlapping areas such as urban runoff, construction, inactive and abandoned mines, animal waste facilities, and marinas; comprehensive State ground-water protection programs; clean lakes programs; wetlands protection programs; estuary programs; watershed planning and total maximum daily loads; and ambient monitoring programs. Moreover, nonpoint source management programs should be consistent with the broad overarching principles of environmental management, including watershed protection and pollution prevention. Accordingly, State nonpoint source programs need to be broadly inclusive so as to best meet States' water quality needs.

Beneficial uses of water (usually termed 'designated uses') are established by States, participating Tribes and other jurisdictions as a part of State water quality standards adopted and approved under section 303 of the Clean Water Act. State water quality standards are dynamic in nature and are periodically revised to reflect changes in science and law, which may in turn result in changes to the specific objectives and requirements in State section 319 nonpoint source management programs. Since our vision for national and State nonpoint source programs is tied to the attainment and maintenance of beneficial uses of water, State nonpoint source programs must be closely coordinated with State water quality standards programs and be periodically revised to reflect changes in beneficial uses.

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III. NONPOINT SOURCE MANAGEMENT PROGRAMS

EPA and the State lead nonpoint source agencies agree that the national nonpoint source program should be redesigned to create incentives and support for States to develop enhanced nonpoint source management programs that successfully address all of the nine key elements of an effective State program as listed and discussed below. EPA's approach will be to work closely with the States and give them programmatic and technical support as they move into a more advanced and independent level of program implementation.

A key feature of the new approach is to recognize and reward States that adopt nine key program elements and which have a proven track record of effectively implementing nonpoint source programs. EPA intends that these States will be formally recognized as Nonpoint Source Enhanced Benefits States by EPA's Regional Administrators and the Assistant Administrator for Water and be provided benefits commensurate with their advanced level of program accomplishment. These benefits are described in Section III-B and include priority for multi-year grant work plans, streamlined review of grants applications, increased technical assistance, reduced reporting requirements, and reduced EPA oversight.

It is EPA's goal that within the next few years, all or most States will have improved their programs to the extent that they are recognized as Nonpoint Source Enhanced Benefits States. EPA will focus its available resources on helping States achieve and maintain this advanced level of program development and implementation.

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A. Nine Key Elements of an Effective State Program

EPA and the State lead nonpoint source agencies agree that the following nine key elements characterize an effective and dynamic State nonpoint source program. Each key element appears in bold type and is then followed by explanatory text that elaborates on the key element. The explanatory text provides information on means by which the States may choose to implement the key element.

All States will review and, as appropriate, revise their nonpoint source management programs in a manner that reflects these nine key elements. States will then submit their upgraded programs to EPA for approval. As discussed below in Sections III-B and V of this guidance, States that successfully incorporate these nine key elements into their programs and have a proven track record of effective implementation will be recognized Nonpoint Source Enhanced Benefits States and be provided maximum flexibility in implementing their programs and other benefits.

1. The State program contains explicit short- and long-term goals, objectives and strategies to protect surface and ground water.

The State's long-term goals are consistent with the national program vision that all States implement dynamic and effective nonpoint source programs designed to achieve and maintain beneficial uses of water. The shorter-term objectives consist of activities, with milestones, that are designed to demonstrate reasonable further progress that leads to accomplishment of the long-term goals as expeditiously as possible. The State program includes objectives that address nonpoint sources of ground-water pollution. The objectives list both implementation steps and the results to be achieved (e.g., water quality improvements or load reductions).

The State program includes long-term goals; shorter-term (e.g., 3- to 5-year) objectives that are periodically updated based on progress; strategies to achieve progress towards achieving the goals, objectives; indicators to measure progress; and annual work plans to implement the strategies.

2. The State strengthens its working partnerships and linkages to appropriate State, interstate, Tribal, regional, and local entities (including conservation districts), private sector groups, citizens groups, and Federal agencies.

The State uses a variety of formal and informal mechanisms to form and sustain these partnerships. Examples include memoranda of agreement, letters of support, cooperative projects, sharing and combining of funds, and meetings to share information and ideas.

The State nonpoint source lead agency works collaboratively with other key State and local nonpoint source entities in the development and implementation of the section 319 management program, and actively involves them in decision making. Interagency collaborative teams, nonpoint source task forces, and representative advisory groups have all proven effective for accomplishing these linkages, especially where they meet on a regular basis and are managed in a collaborative and inclusive manner.

Further, the State seeks public involvement and comment on significant proposed program changes and engages in public education activities to promote public awareness of nonpoint source pollution and its solutions. As appropriate, representatives are involved from local, regional, State, interstate, Tribal and Federal agencies, and public interest groups, industries, academic institutions, private landowners and producers, concerned citizens and others. This involvement helps ensure that environmental objectives are well integrated with those for economic stability and other social and cultural goals.

3. The State uses a balanced approach that emphasizes both State-wide nonpoint source programs and on-the-ground management of individual watersheds where waters are impaired or threatened.

The State nonpoint source management program emphasizes a watershed management approach and is well integrated with other important programs to protect and restore water quality. These include point source, ground water, drinking water, clean lakes, wetlands protection, and national

estuary programs; coastal zone programs; conservation, and pesticide management programs; forestry programs; and other natural resource and environmental management programs.

Each State has the flexibility to design its nonpoint source management program in a manner that is best suited to attain and maintain beneficial uses of water. On-the-ground implementation of practices and programs is the best means of reducing and preventing pollution from nonpoint sources, but States may achieve this on-the-ground implementation by a combination of watershed approaches and State-wide programs. Similarly, as described more fully in key element 5 below, the State may use any combination of water-quality or technology-based approaches it deems appropriate to make progress towards attaining and maintaining beneficial uses of water.

4. The State program (a) abates known water quality impairments from nonpoint source pollution and (b) prevents significant threats to water quality from present and future nonpoint source activities.

The program is designed to remedy waters that the State has identified as impaired by nonpoint source pollution. Further, the program is designed to prevent new water quality problems from present and reasonably foreseeable nonpoint source activities, especially in waters which currently meet water quality standards.

While it may take years to remedy waters that are already impaired, it is also important for States to take appropriate steps expeditiously to protect clean waters from reasonably foreseeable degradation. State programs should place a priority on protecting waters from future nonpoint source pollution as soon as possible (generally within 5 years).

5. The State program identifies waters and their watersheds impaired by nonpoint source pollution and identifies important unimpaired waters that are threatened or otherwise at risk. Further, the State establishes a process to progressively address these identified waters by conducting more detailed watershed assessments and developing watershed implementation plans, and then by implementing the plans.

The State identifies waters impaired by nonpoint source pollution based on currently available information (e.g., in reports under sections 305(b), 319(a), 303(d), 314(a), and 320), and revises its list periodically as more up-to-date assessment information becomes available. The State also identifies important unimpaired waters that are threatened or otherwise at risk from nonpoint source pollution.

In addition the State identifies the primary categories and subcategories causing the water quality impairments, threats, and risks. At 5-year intervals, the State updates the identification of waters and their watersheds impaired or threatened by nonpoint source pollution preferably as part of a single comprehensive State water quality assessment which integrates reports required by sections 305(b), 319(a), 303(d), 314(a) and 320.

The factors used by the State to progressively address its waters may include a variety of relevant environmental and administrative considerations, including, for example:

- human health;
- ecosystem health including ecological risk;
- the beneficial uses of the water;
- value of the watershed or ground-water area to the public;
- vulnerability of the surface or ground water to additional environmental degradation;
- likelihood of achieving demonstrable environmental results;
- implementability;
- extent of alliances with other Federal agencies and States to coordinate resources and actions; and
- readiness to proceed.

The State links its prioritization and implementation strategy to other programs and efforts as appropriate. Examples include total maximum daily loads, clean lakes programs, comprehensive ground-water protection programs, source water protection programs, wetlands protection programs, national estuary programs, ambient monitoring programs, and pesticides management programs. Related programs administered by agricultural, forestry, highway, and other agencies should also be linked, for example, USDA's Water Quality Initiative, PL-534 and PL-566 Watershed Projects and the Northwest Salmon Initiative. In establishing priorities for ground-water activities, the State considers wellhead protection areas, ground-water recharge areas, and zones of significant ground water/surface water interaction.

More detailed information on priority setting is also contained in pp. 11 and 12 of the December 1987 Nonpoint Source Guidance; Setting Priorities: The Key to Nonpoint Source Control (EPA, 1987); Selecting Priority Nonpoint Source Projects: You Better Shop Around (EPA, 1989); Geographic Targeting: Selected State Examples (EPA, 1993) and Watershed Protection: A Project Focus (EPA, 1995).

6. The State reviews, upgrades, and implements all program components required by section 319(b) of the Clean Water Act, and establishes flexible, targeted, and iterative approaches to achieve and maintain beneficial uses of water as expeditiously as practicable. The State programs include:

- **A mix of water quality-based and/or technology-based programs designed to achieve and maintain beneficial uses of water; and**
- **A mix of regulatory, non-regulatory, financial and technical assistance as needed to achieve and maintain beneficial uses of water as expeditiously as practicable.**

Section 319(b) specifies the minimum contents of State nonpoint source management programs. These include:

(i) An identification of the measures (i.e., systems of practices) that will be used to control nonpoint sources of pollution, focusing on those measures which the State believes will be most effective in

achieving and maintaining water quality standards. These measures may be individually identified or presented in manuals or compendiums, provided that they are specific and are related to the category or subcategory of nonpoint sources. They may also be identified as part of a watershed approach towards achieving water quality standards, whether locally, within a watershed, or state-wide;

(ii) An identification of programs to achieve implementation of the measures, including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects. States should establish a flexible, targeted approach to solve their water quality problems. States have the freedom to decide the best approaches for solving the problems that they identify under key element 5 above. These approaches may include one or all of the following:

- watershed or water quality-based approaches aimed at meeting water quality standards directly;
- iterative, technology-based approaches based on best management practices or measures, applied on either a categorical or site-specific basis; or
- an appropriate mix of these approaches.

(iii) A description of the processes used to coordinate and, where appropriate, integrate the various programs used to implement nonpoint source pollution controls in the State;

(iv) A schedule with goals, objectives, and annual milestones for implementation at the earliest practicable date: legal authorities to implement the program; available resources; and institutional relationships;

(v) If the State program is changed substantially, certification by the Attorney General or designee;

(vi) Sources of funding from Federal (other than section 319), State, local, and private sources;

(vii) Federal land management programs, development projects and financial assistance programs (see key element 7 below); and

(viii) A description of the monitoring and other evaluation programs that the State will conduct to help determine short- and long-term program effectiveness.

In addition, State nonpoint source programs must incorporate existing baseline requirements established by other applicable Federal or State laws to the extent that they are relevant. For example, coastal States and Territories should include or cross-reference approved State coastal nonpoint source programs required by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. In this manner, States can make sure that these coastal nonpoint source programs, and other relevant baseline programs are integrated into section 319 programs and that they are eligible for section 319(h) grant funding, which is limited by section 319(h)(1) to "the implementation of approved section 319 programs."

All of these components should be identified by the State, included in the State nonpoint source management program and be reviewed and approved by EPA under section 319 of the Clean Water Act.

7. The State identifies Federal lands and activities which are not managed consistently with State nonpoint source program objectives. Where appropriate, the State seeks EPA assistance to help resolve issues.

The State commits to reviewing and identifying those Federal land management programs, development projects and financial assistance programs that are or may be inconsistent with the State's nonpoint source management program.

As a Federal agency, EPA has a special role to play in support of State nonpoint source programs by working with other Federal agencies to enhance their understanding of the significance of nonpoint source pollution and of the need to work cooperatively with States to solve nonpoint source problems. Where appropriate, EPA will help develop memoranda of agreement among States and Federal agencies to help reduce nonpoint source pollution on Federal lands and to better address nonpoint source pollution in Federal assistance programs and development projects. In addition, where appropriate, EPA will assist in resolving particular issues that arise between the State and Federal agencies with respect to Federal consistency with the State nonpoint source management program.

8. The State manages and implements its nonpoint source program efficiently and effectively, including necessary financial management.

The State implements its program to solve its water quality problems as effectively and expeditiously as possible. Timeliness is key to accomplishing environmental objectives and demonstrating results as soon as possible. To help assure that priority water quality problems are addressed cost-effectively and in a timely manner, the State includes in its program a process for identifying the critical areas requiring treatment and protection within watersheds selected for implementation activities, and assigns the highest priority to addressing those areas.

The State employs appropriate programmatic and financial systems that ensure that section 319 dollars are used consistently with its legal obligations, and generally manages all nonpoint source programmatic funds to maximize environmental benefits. The State ensures that section 319 funds complement and leverage funds available for technical and financial assistance from other Federal sources and agencies.

9. The State periodically reviews and evaluates its nonpoint source management program using environmental and functional measures of success, and revises its nonpoint source assessment and its management program at least every five years.

In its upgraded program, the State establishes appropriate measures of progress in meeting its programmatic and environmental goals and objectives identified in key element #1 above. The State

also describes a monitoring/evaluation strategy and a schedule to measure success in meeting those goals and objectives. The State integrates monitoring and evaluation strategies with ongoing Federal natural resource inventories and monitoring programs.

Appendix A presents a guide for evaluating the effectiveness of State nonpoint source management programs, based on these nine key elements. Approaches to environmental indicators and monitoring and described below.

a. Environmental Indicators

States are encouraged to use several sets of measures to fully indicate their success in implementing their nonpoint source programs. These include measures that indicate progress towards achieving and maintaining beneficial uses of water; towards long-term goals (e.g., installing appropriate technology at all animal waste facilities that need to be upgraded, or implementing particular watershed projects); and towards shorter-term goals and objectives (e.g., successfully implementing a particular technology).

Appendix B contains an illustrative set of indicators and other measures that can help the States and the public gauge the progress and success of their programs. States may identify and use other indicators and measures that are most relevant to their particular nonpoint source problems, programs, and projects. However, States are strongly encouraged to use environmental endpoints to the greatest extent feasible, so that the State and the public may best recognize the State's progress in addressing water quality problems in terms that are most relevant to the public's concerns. In addition, as discussed in section IV-D of this guidance, States must include in its annual reports at least the three measures of progress that are identified in section 319(h)(11), including implementation milestones, available information on reductions in nonpoint source pollutant loadings, and available information on improvements in water quality.

EPA is currently developing a broad strategy for the use of environmental indicators for its various environmental programs, including its water programs. The list in Appendix B, while providing more detail on indicators that are of particular relevance to State nonpoint source programs, is consistent with the environmental indicators adopted nationally by EPA to measure progress towards environmental goals.

b. Monitoring in Watershed Projects

Appropriate monitoring of watershed project implementation is an essential tool to enable States to identify nonpoint source pollution problems and to evaluate nonpoint source program effectiveness. First, States need to identify sources, document the effectiveness of individual measures and BMP systems, and develop watershed-level strategies to prevent and control nonpoint source pollution. Second, in the case of watershed projects intended to demonstrate a new or innovative technical or institutional approach to resolving nonpoint source water quality problems, monitoring is needed to developing the information and data necessary to demonstrate the project's effectiveness and the applicability of the approach elsewhere. Third, monitoring is needed to help States meet the annual

reporting requirements of section 319(h)(11), especially information on reductions in nonpoint source pollutant loading and improvements in water quality. Therefore, an appropriate type of monitoring should be considered for watershed projects funded with section 319 grants.

Major watershed projects should include some form of tracking or monitoring to evaluate effectiveness. Watershed implementation plans should include clearly stated monitoring objectives and an evaluation strategy making clear what the State expects to learn as a result of its evaluation of the project. The evaluation approach may be tailored to the specific project, based on factors such as the project's size and objectives. Approaches that can be used to meet the project evaluation needs include ambient water quality monitoring (e.g., edge-of-field, small watersheds, multiple watersheds, in-lake, in-aquifer monitoring), beneficial use assessment (e.g., biological/ habitat assessment, attainment of water quality standards), implementation monitoring (e.g., audits, activity tracking, geographic information system tracking of land use and land management), model projections, and photographic evidence. Ambient monitoring and beneficial use assessment tracking should be included for projects wherever feasible.

While States may use section 319(h) grant funds for monitoring activities for particular watershed projects, States are encouraged to also explore other approaches to conducting monitoring. For examples, the U.S. Geological Survey and the National Oceanic and Atmospheric Administration hold an array of ambient data and can provide support for various monitoring activities, and volunteer monitoring programs are a useful resource in many States.

c. National Monitoring Program EXIT Disclaimer

To provide a credible national documentation of the feasibility of controlling and preventing pollution resulting from nonpoint sources, and to improve technical understanding of nonpoint source pollution and the effectiveness of nonpoint source control technology and approaches, EPA has established a more rigorous and standardized monitoring framework that can be used for a representative subset of watershed projects funded under section 319. This monitoring will be continued for this subset of selected watershed projects for appropriately long periods of time e.g., 6-10 years. States are strongly encouraged to conduct intensive water quality monitoring of one or more projects within the State as part of this national evaluation.

EPA has developed a framework for selecting national monitoring projects, issued guidelines for minimum monitoring activities, and developed software for managing and reporting data (see Appendix H for references). To date, 17 high-quality national projects have been selected across the country through a rigorous but collaborative process involving the State the EPA Region, and EPA Headquarters (these projects are listed in Appendix I). Additional high-quality monitoring projects will be selected in future years using the same collaborative process. For all projects, EPA provides specialized technical support in project development, monitoring design, data management and analysis, and reporting. From time to time, and in close collaboration with relevant States and project managers, EPA will publish progress reports and results.

Prior to Fiscal Year 1996, a small set aside was provided from section 319 grants for these national monitoring projects. Beginning in FY 1996, this set aside was eliminated along with all other discretionary set asides. Therefore, States are now strongly encouraged to give priority to projects in the National Monitoring Program. By the nature of nonpoint source pollution, long term monitoring results are crucial to determine successes and BMP effectiveness, which in turn requires sustained year-to-year funding. For those not familiar with this program, a detailed description of the national monitoring projects is available from EPA.

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B. Toward Our Vision: Dynamic and Effective Nonpoint Source Programs

All States and Territories now have approved nonpoint source management programs supported by Federal grants awarded under section 319. EPA and designated State lead nonpoint source lead agencies are committed to work to achieve our vision that all States are implementing dynamic and effective nonpoint source programs designed to achieve and maintain beneficial uses of water.

Generally, EPA's administration of section 319 grants, as well as EPA's technical assistance and support to States, should reflect the different levels of capability and accomplishment among the States. Moreover, EPA programs and State nonpoint source management programs alike will flourish best in an atmosphere of open discussion and collaboration. Therefore, based on open and collegial reviews of performance, EPA will provide recognition and enhanced administrative benefits to States which manifest the vision of this program.

Specifically, EPA and State senior managers should meet at least once a year to discuss (i) State nonpoint source environmental accomplishments and remaining problems, (ii) State nonpoint source management programs and needs for adjustment or evolution, and (iii) overall progress towards the vision of this program. Similarly, State needs for technical assistance and help from EPA should be discussed and agreed to. To the extent that a State has chosen to apply for a Performance Partnership Grant or participate in the National Environmental Performance Partnership System, the nonpoint source program should be discussed in the context of the overall environmental needs and goals of the State and as a component of the overall State-EPA environmental performance agreement.

EPA will promote State progress towards the vision of the program through incentives and technical support, in full collaboration with the State, and EPA will continue to support State programs financially through section 319 grants as a minimum. Administrative incentives will be offered to States to further encouraged to achieve the vision, including but not limited to recognition of Nonpoint Source Enhanced Benefits States.

A State which incorporates all nine key elements in its revised nonpoint source management program and which has proven a track record of effective implementation of its nonpoint source

programs will be formally recognized by the Regional Administrator and the Assistant Administrator for Water as a Nonpoint Source Enhanced Benefits State.

NPS Enhanced Benefits States will be afforded substantially reduced oversight and maximum flexibility to implement their State programs and to achieve and maintain beneficial uses of water. Thus, while EPA has greatly streamlined the section 319 grants program for all States (e.g., grantee performance reports are generally to be required no more frequently than semi-annually), EPA is providing further flexibility to Nonpoint Source Enhanced Benefits States with complete programs and proven track records. A proven track record of effective implementation is indicated by the State's success to date in (a) establishing nonpoint source controls and installing measures and practices that provide real movement towards achieving water quality objectives through nonpoint source control, (b) generally meeting legal requirements relating to fiscal and administrative management.

Specifically, Nonpoint Source Enhanced Benefits States will be afforded the following benefits, as a minimum:

- Top priority for developing multi-year work plans, thus eliminating yearly negotiations and paperwork;
- Minimal EPA review of grant work plans;
- Amount and frequency of reporting reduced to minimum (e.g., grantee performance reports are to be required no more frequently than annually);
- Substantially reduced intensity and frequency of EPA oversight, including minimal evaluations of States' self-assessments and statutorily-mandated reports; and
- Top priority for advanced technical expertise and assistance.

See Section IV. A. below for additional information on reduced oversight for Enhanced Benefits States.

Beginning in FY 1997, the EPA Regional Office will determine whether a State should be recognized as a Nonpoint Source Enhanced Benefits State, based on a timely and collaborative process involving the State and EPA Headquarters. Information, questions and issues will be discussed and shared among all these parties. EPA's recognition will be provided by the Regional Administrator and the Assistant Administrator for Water, accompanied by a public announcement and written recognition.

Once a State has been recognized as a Nonpoint Source Enhanced Benefits State, it will retain that status unless EPA determines that it no longer qualifies. In consultation with EPA Headquarters, the EPA Region and the State will review a State's Enhanced Benefits status every two or three years as needed to assure that the nonpoint source management program continues to include all nine key elements and that it maintains a proven track record of implementation.

EPA and the designated State lead nonpoint source agencies intend that within a few years, all or most States will have improved their programs and track records so that they are recognized as Nonpoint Source Enhanced Benefits States.

EPA's role will increasingly be focused on helping States which have not incorporated all nine key elements in its revised nonpoint source management program to do so, in a manner appropriate to the needs of the State. Further, EPA will focus increasingly on providing appropriate technical assistance and support to these States to help them implement their approved nonpoint source management programs and to build a good track record of implementation.

For all States, EPA's role in the nonpoint source program will shift away from grants oversight and administration and towards technical assistance and cooperation to help States implement well-designed nonpoint source management programs. Technical assistance, training, watershed- or community-based projects, cross-border or ecosystem-wide initiatives, and special assistance in working with other Federal agencies are examples of specific ways in which EPA will help States achieve environmental results. Within its resource constraints, EPA will provide more sophisticated assistance such as advanced modeling and monitoring tools and design of high-quality watershed projects. EPA will also help arrange for needed technical assistance in monitoring, modeling and best management practices from other Federal agencies, including the US Geological Survey, the US Forest Service, the Natural Resources Conservation Service, the National Oceanic and Atmospheric Administration, the Office of Surface Mining, the Army Corps of Engineers, and the Bureau of Land Management. Further, where necessary and appropriate, EPA will also provide special assistance with Federal agencies where Federal activities may not be consistent with State nonpoint source management programs.

EPA's role should be discussed and opportunities for EPA technical assistance and support to the State should be specifically identified during the annual State-EPA discussions of performance and progress.

IV. GRANTS

A fundamental principle of this guidance is that States should have the flexibility to use section 319 grant funds in a manner that they determine will best implement their nonpoint source management programs effectively to achieve the vision established at the beginning of this guidance and to achieve the specific goals and objectives established in their State nonpoint source management programs. Moreover, EPA and States will continue to reduce administrative responsibilities to the lowest level possible to assure that the funds are being used effectively and in a legally appropriate manner.

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A. Funding Process

1. General Approach to Awarding Funds

Beginning in FY 1997, EPA will no longer use a competitive process for awarding section 319 grants. Rather, EPA will use the allocation formula presented in Appendix G to determine the amount to be awarded to each State (this formula remains unchanged from previous guidance but may be updated in the future to reflect up-to-date statistics). Each year, the Congressional appropriation for section 319 will be multiplied by the applicable percentage presented in Appendix G to determine each State's allocation for that year. As soon as the annual section 319 appropriation is made by Congress, EPA Headquarters will immediately notify the EPA Regional offices of each State's allocation, and the Regions will immediately notify the States.

Consistent with historical practice, EPA will continue to award all appropriated section 319 funds under section 319(h) and will not award separate grants under section 319(i), "grants for protecting ground water quality". Ground-water protection projects and activities will continue to be funded under section 319(h).

2. Expedited Schedule

In FY 1994 and 1995, EPA and the States gradually expedited the section 319 grants award schedule to provide for awarding the grants by February 1. This guidance further expedites this schedule over FY 1997 and 1998. By FY 1998 at the latest, the schedule will provide for award of the grants by October 1, thus making the 319 award date compatible with the October 1 date used to award water pollution control grants to States under sections 106 and 604(b) of the CWA. The schedules for FY 1997 and for FY 1998 and beyond are presented in Appendix D.

A primary advantage of further expediting the section 319(h) grant award process is to bring section 319 grants into a cycle consistent with other State grant programs for water, especially funding under sections 106 and 604(b) of the Clean Water Act. These grant programs initiate planning in the Spring based on the President's budget request for the next fiscal year. Several other advantages for expediting the 319(h) grant award schedule include:

- ability to use grant funds in the same year in which they were appropriated; avoiding missing an entire construction season and/or cropping season; and
- maintaining momentum and enthusiasm for implementation projects at the local level.

A few States may determine that it is in their best interest or infeasible not to combine section 319 and other grants and not to expedite their grants award schedules. In that case, the Region and State may agree on a different schedule, but in every case, this different schedule should be based on an open, collaborative discussion and be based on the needs of the State.

In all cases, Federal funds need to be put to work expeditiously, so States are strongly encouraged to expedite award schedules.

3. Six-Step Process

The following process will generally be used to award all section 319 grants. However, Nonpoint Source Enhanced Benefits States will be accorded priority for negotiating multi-year work plans, which will further reduce administrative costs for those States. (Note: Please see Appendix D for the schedules for this six-step process.)

Step 1: EPA provides a planning target to each State.

Step 2: States submit draft grant applications, including a draft work plan.

Each State will submit a draft grant application, including a draft work plan. As part of the draft work plan, each State should submit a brief (3-4 paragraph) introductory narrative explaining the State's strategy for using section 319 funds in the current fiscal year.

Each Region will work closely and collaboratively with each State at this stage to promote the development and submission of high-quality work plans that: (1) conform to all applicable legal requirements of section 319, 40 CFR Part 31, and 40 CFR Part 35, Subpart A, and the requirements of OMB Circulars A-87, A-102, and A-110; and (2) are consistent with the goals, objectives and priorities in the State nonpoint source management program.

Work plans should briefly but clearly describe each significant category of activity (e.g., 2 pages) each, the funding to be used to accomplish each activity, the roles of various local, State and Federal partners in completing each activity, and the outputs to be produced by performance of the activity. This will not only assure that the State and EPA have shared expectations, but will also assure that the State's subsequent performance can be assessed objectively. Outputs for activities should always be quantified, as described below in Section IV-C and Appendix B.

Work programs for lengthy projects (i.e., multi-year projects) should include both interim milestones and final dates for completion of activities. Interim milestones should be sufficiently frequent to assure timely performance throughout the project period, so that the State can identify problems and correct them expeditiously.

EPA is committed to providing States great flexibility in determining their own priorities and methods for choosing and implementing watershed projects. Therefore, EPA is reducing its request for specific information about watershed projects to the minimum that is needed by EPA to: (1) carry out its legal fiduciary responsibilities of (a) determining that expenditures are necessary, eligible, and reasonable and (b) tracking expenditures and rates of expenditures to assure that they are consistent with the grant, and (2) assure that the State and EPA will mutually be able to assess the success of grant activities in meeting State program goals.

Therefore, for significant watershed projects (those whose costs exceed $50,000), the State should submit a brief (e.g., 2-3 page) synopsis of its watershed implementation plan. This synopsis should outline the problem to be addressed; the project's goals and objectives; the lead implementing agency and other agencies that will be authorized to expend project funds; the types of measures or practices that will be implemented; the projected implementation schedule; and the environmental

indicators and/or other performance measures that will be used to evaluate the success of the project. (Appendix C contains more information on these elements of well-designed watershed implementation plans.)

Step 3: Regions conduct their reviews of State applications

The Region will review each State's application and meet or conduct a telephone conversation with each State to resolve any technical or administrative issues. Following this collaboration, Regions should provide a written reply to the State. The Regional response should include written comments on the State's application, paying particular attention to applicable legal requirements and its consistency with the goals, objectives, and priorities established in the State management program. The written reply should also include any agreements reached with States concerning additional steps the State will take to become a Nonpoint Source Enhanced Benefits State.

For Nonpoint Source Enhanced Benefits States, the scope of EPA Regional reviews of grant applications will be as limited as possible, and be highly deferential to State judgements, priorities, and chosen means of implementation. For Enhanced Benefits States, EPA's review of the section 319 nonpoint source grant applications will focus primarily on assuring that it meets legal minimums and that it does not contain significant errors.

Step 4: States submit final work plans and grant applications to EPA Regions

Step 5: Regions award grants

Each Region will review its States' final work plans. If a State's work programs meet all applicable requirements, the Region will award the final grant as quickly as possible. Where issues remain, the Region will elevate discussions to more senior management levels quickly to achieve a satisfactory resolution of the problem. In the unlikely event that funds cannot be fully awarded to a particular State, they must be returned to the Region for reallocation by August 1 of the fiscal year for which funds are appropriated.

Step 6: States obligate funds

States will obligate the awarded funds as quickly as possible and conduct funded activities according to the schedules in approved work plan. EPA has interpreted section 319(h)(6) to provide that section 319(h) funds granted to a State shall remain available for obligation by the State for one year from the grant award. For example, grant funds awarded to a State on December 1, 1996, remain available for obligation until December 1, 1997. The amount of any such funds that cannot be obligated by one year from the grant award shall be available to EPA for granting to other States. Regions should include grant condition language calling for the grant recipient to award all proposed contracts and interagency agreements within one year after the grant award.

The term "obligate" does not mean to "expend." It means that the State must commit the section 319(h) funds to be expended. EPA defines an "obligation (by a recipient)" as "the amount of funds

which a recipient legally earmarks for expenditure through orders placed, payrolls, subagreements awarded, travel authorizations, and other transactions."

4. Multi-Year Work Plans

EPA will place high priority upon developing multi-year work plans for section 319 grants for Nonpoint Source Enhanced Benefits States. For example, the State may wish to present a three-year work plan which would guide the State's grant activities for the next three years. This work plan, when approved by EPA, would not have to be resubmitted and reapproved except to the extent that the State wishes to change it to address new circumstances. This approach will reduce paper work and will improve the State's ability to engage in long-term planning and implementation with respect to both programmatic activities and specific watershed projects. These Enhanced Benefits States will, however retain the option of developing aspects of their programs or projects on an annual basis where it deems appropriate.

States which have not been recognized as Nonpoint Source Benefits States may also work with EPA to develop multi-year work plans for certain components of their grants. However, until a State is recognized as a Enhanced Benefits State, it is likely that most of its activities will require a more careful evaluation by EPA and that a new grant work plan will be required for the coming year.

5. "M Account" Funds and Transfer of Funds Between Projects

Section 319 funds appropriated in FY 1990, FY 1991, and FY 1992 are subject to restrictions (often referred to as "M account" restrictions) which automatically cause these appropriations to expire seven years after the date of appropriation. Any unspent funds remain in the U.S. Treasury and are no longer available to EPA or the State. States and EPA Regions should take the necessary actions to be sure unspent funds from these years are transferred to other projects before expiration (e.g., for FY 1990 funds, before September 30, 1996).

To increase rates of expenditure of older funds such as "M Account" funds and to reduce paperwork requirements, some States have suggested that the process for transferring funds between projects funded in different years be simplified and streamlined. EPA is exploring whether necessary modifications to allow such transfers could and should be made. Supplementary guidance may be issued on this subject in the future.

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B. Grant Eligibility

Section 319 grant funds are to be directed towards the vision that all States implement dynamic and effective programs designed to achieve and maintain beneficial uses of water. Approved State nonpoint source management programs provide the framework for determining what activities are

eligible for funding under section 319(h). Therefore, States may use section 319 funds for nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source implementation projects.

1. Revising Management Programs and Assessments

In addition to the eligible activities listed above, States may use section 319 funds to update and refocus their State nonpoint source management programs and nonpoint source assessments to improve program effectiveness. To assist States in these efforts, States may use up to 20 percent of their section 319(h) funds or $250,000, whichever is less, to update and refine their programs and assessments.

In refining their programs to reflect the most pressing needs and highest-priority water quality problems in the State, States may need to carry out additional activities and analyses. Based on the key elements of State programs that are described in the preceding section of this guidance, program revisions that may be supported with section 319 grants include: establishing appropriate indicator and milestones to gauge program progress; developing total maximum daily loads and other watershed-scale strategies to reduce nonpoint source pollution; focusing on determination of the most effective measures and practices to abate or prevent nonpoint pollution; strengthening links with Federal land management agencies; developing enhanced processes to involve public, private, and Federal partners in the design and implementation of State nonpoint source management programs; and instituting systems to assess program effectiveness and make appropriate revisions.

In addition, States may need to carry out a number of activities that have generally been associated with nonpoint source assessments. For example, States may require additional assessment work either as part of specific watershed projects, or as part of an overall Statewide, regional, or ecoregional effort. Such additional assessment work will enable States to more clearly identify and prioritize their nonpoint source problems, evaluate the effectiveness of their nonpoint source management programs, and measure progress toward environmental goals.

2. Ground-Water Activities

Ground-water activities are eligible for section 319(h) grants to the extent that they are identified directly in the State's nonpoint source management program or through incorporation in the management program by reference to the State's Ground-Water Protection Strategy or Comprehensive State Ground-Water Protection Program. If such activities are not currently included in the State's nonpoint source management program, the program should be amended to include them.

3. Urban Storm Water Runoff

Section 319 funds may be used to fund any urban storm water activities that are not specifically required by a draft or final NPDES permit. EPA has issued several regulations defining what activities are subject to the NPDES permit requirements of section 402(p)(2) of the CWA. The most significant of these was the publication of permit application requirements in November 1990 for "Phase I" storm water dischargers, that is, municipal separate storm sewers serving large or medium-sized populations (greater than 250,000 or 100,000 people, respectively), and storm water discharges associated with industrial activity. See 55 FR 47990.

EPA is currently in the process of determining what storm water discharges will be covered by "Phase II" of the storm water program. Until EPA issues regulations specifying what additional storm water discharges are subject to NPDES permit application requirements, States may use section 319(h) funds for those urban storm water discharges that are not addressed by existing, Phase I storm water program requirements. These include both Phase II discharges as well as aspects of Phase I activities that support but do not directly implement activities required by Phase I permits.

EPA and the States recognize the benefits of integrating nonpoint source funds and storm water activities as much as is legally allowable. Listed below are a variety of urban runoff management activities that could be eligible for section 319(h) funding.

- Technical assistance to State and local storm water programs;
- Monitoring needed to design and evaluate the effectiveness of implementation strategies;
- Best management practices for pollution prevention and runoff control (except for BMPs required by a draft or final NPDES permit);
- Information and education programs;
- Technology transfer and training; and
- Development and implementation of regulations, policies, and local ordinances to address storm water runoff. (These may apply to areas covered by NPDES permits, provided that the regulations, policies and ordinances apply to non-permitted areas as well.)

Historically, urban storm water management control efforts have focused on water drainage problems i.e., water quantity. Now many storm water control BMPs are designed to control both water quantity and water quality. Section 319(h) funds may be used to assist in the incremental funding of certain water quality components of such practices, except as described below.

Section 319(h) nonpoint source control funds may not be used to implement specific requirements of draft or final NPDES storm water permits, nor to implement permit application requirements of EPA's storm water regulations. For example, section 319(h) funds may not be used to meet permit application requirements such as mapping storm water systems, identifying illicit connections, characterizing storm water discharges, or monitoring required by permits. Section 319(h) grant funds may not be used to pay for BMPs or "end of pipe" treatments which are required as part of a draft or final NPDES permit.

These prohibitions are based on the statutory limitations on the use of section 319 funds, including Congressional intent that these funds be used to address nonpoint sources, rather than permitted

point sources. Congress determined that permitted point sources (other than publicly owned treatment works that obtained construction grants under section 212 of the CWA) would generally comply with NPDES permit requirements without Federal financial assistance.

4. Abandoned Mine Lands

As in the case of urban storm water regulated by NPDES permits, many abandoned mine land reclamation projects that are designed to protect water quality are eligible for section 319 funding, except section 319 funds may not be used to implement specific requirements in a draft or final NPDES permit. For example, section 319 funds cannot be used to build treatment systems required by an NPDES permit for an inactive mine, but they may be used to fund a variety of other remediation activities at the same mine. Examples of fundable activities include:

- Remediation of water pollution from abandoned mines that have not yet been issued a draft or final permit;
- Remediation of water pollution from portions of abandoned mine sites that are not covered by a draft or final permit;
- Mapping and planning remediation at abandoned mine land sites;
- Monitoring needed to design and evaluate the effectiveness of implementation strategies;
- Technical assistance to State and local abandoned mine land programs;
- Information and education programs;
- Technology transfer and training; and
- Development and implementation of policies to address abandoned mine lands.

The Natural Resources Conservation Service and local soil conservation districts have a vast array of on-the-ground experience in the area of rural abandoned mine lands. In addition, the Office of Surface Mining has a 10% set-aside from its Abandoned Mine Land program to address water quality from abandoned mines.

5. Lake Protection and Restoration Activities

Lake protection and restoration activities are eligible for funding under Section 319(h) to the same extent, and subject to the same criteria, as activities to protect and restore other types of waterbodies from nonpoint source pollution. States are encouraged to use Section 319 funding for eligible activities that might have been funded in previous years under Section 314 of the Clean Water Act. However, Section 319 funds should not be used for in-lake work, such as aquatic macrophyte harvesting or dredging, unless the sources of pollution have been addressed sufficiently to assure that the pollution being remediated will not recur.

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C. Criteria That Apply to the Award of Section 319 Grants

Section 319 grants must meet certain statutory, regulatory and other administrative criteria that have been established to assure that section 319 funds are used in a fiscally prudent manner. All section 319 grants must be consistent with applicable provisions of EPA's general grant regulations, 40 CFR Part 31, Part 35 Subpart A, and the Agency's guidance on Performance Partnership Grants. The most important of these criteria are discussed below.

1. The Work Plan Must Demonstrate That Each Funded Element Will Implement Specific Activities Identified in the Approved Management Program

Section 319(h) of the CWA provides that section 319(h) grants are to be made "for the purpose of assisting the State in implementing such management program." The grant work program must therefore "implement" the approved nonpoint source management program; each funded program activity or project will in fact lead to accomplishment of identified management program objectives. Grant work plans should link the funded activities or projects to the relevant element or elements of the States nonpoint source management program. (Specific ground-water protection activities that are not described in the nonpoint source management program are eligible if the activities are included in a State's Ground-Water Protection Strategy or Comprehensive Program, and the State's nonpoint source management program makes reference to these documents or programs.) Work plans should also indicate which Federal, State and local agencies are responsible for implementing each project or activity.

2. Section 319 Grants Must be Awarded as Continuing Environmental Program Grants

All section 319(h) grants should be awarded as continuing environmental program grants, consistent with 40 CFR, Part 35, Subpart A. Section 319(h) grants have some unique administrative characteristics i.e., multi-year vs. one-year budget and project periods, which are different from other EPA continuing environmental grant programs.

Unlike most other continuing environmental grants, section 319(h) grants are not required to be closed out annually. Regions are encouraged to award new continuing environmental program grants each year rather than to add funds to an existing State grant through amendments. This should allow for greater program accountability over the multi-year duration of these grants. The Regions must also ensure that all existing State grants are properly closed out at the conclusion of the project period.

3. The Non-Federal Share Must Be At Least 40 Percent

Section 319(h)(3) provides that the Federal share shall not exceed 60 percent of the management program implementation cost and shall be made on the condition that the non-Federal share is provided from non-Federal sources. The match need not be on an item-by-item basis, but rather should be a single figure that covers the entire non-Federal share of the costs for implementation activities. The non-Federal match does not need to be contributed at the time of the grant award but

the funds must be contributed in a timely manner as needed to meet the schedules established in work plan milestones. EPA Regions must verify that grantees have satisfied the match requirements upon review and submittal of the grantee's final financial status report.

4. Section 319 May Provide Cost Sharing to Individuals Only in the Case of Demonstration Projects

Section 319(h)(7) provides that States may use section 319(h) funds to provide financial assistance to individuals only if the costs are related to implementing "demonstration projects." This provision indicates that Congress did not intend for section 319 funding to be used for general cost sharing to individuals to support the implementation of BMPs. However, this does not mean that a project may be funded only in one location. A similar approach may need to be demonstrated in many locations to indicate its widespread utility in a variety of hydro-geological and sociological settings. Moreover, projects should be demonstration in a variety of locations so that they may in fact be demonstrated meaningfully to others who may wish to avail themselves of the same approaches used in the projects.

In particular, EPA does not believe that Congress intended to preclude the funding of demonstration watershed projects that may require cost-sharing a particular practice or set of practices at a number of sites within the watershed in order to demonstrate the overall effectiveness of the adopted approach in solving the water quality problem.

To ensure widespread implementation of best management practices in a demonstration project in a high-priority watershed, States may supplement Section 319 cost-share to individuals with additional cost-share from State funds. Where such an approach is followed, the total cost-share to an individual from section 319, State and other Federal (e.g. USDA) funds must not exceed 100% of the total cost of the practice and be in compliance with all other applicable funding requirements.

5. States Must Maintain their Level of Effort

Section 319(h)(9) of the CWA requires any State applying for section 319 grants to establish and maintain its aggregate annual level of State nonpoint source pollution control expenditures for improving water quality at the average level of such expenditures in FY 1985 and 1986. This is referred to as the State's "Maintenance of Effort" (MOE) requirement. States should establish their FY 1985 and 1986 level and annual levels based on expenditures by the lead State agency or agencies responsible for the State's nonpoint source pollution control activities. Federal funds may not be included in calculating the MOE base level.

- Calculation of expenditures is based on activities of the State lead nonpoint source agency or agencies responsible for the State's nonpoint source pollution control activities, not on what might be termed related activities of other State agencies with primary missions other than nonpoint source control. For example, if the State water quality agency and agricultural agency both have specific nonpoint source water quality control programs, these should be counted in the MOE. State soil conservation programs having water quality

improvement or maintenance as a primary objective also should be included in a State's MOE.

- The MOE base level or annual level cannot include the MOE or matching expenditures for other Federal programs, such as sections 106, 319, 205(j)(5), 314, and 117.
- Determination of whether the State expenditures meet the MOE level for purposes of awarding a section 319(h) grant will be based on the grantee expenditures projected in the grant application. (The State will report whether it has met its MOE requirements in its final Financial Status Report at the end of the budget year.)

See memorandum Nonpoint Source FY-88-39, issued by EPA's Office of Water on July 12, 1988 for additional guidance regarding MOEs.

6. Administrative Costs Funded by Section 319 Funds May Not Exceed 10% of the Grant Award

Pursuant to 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.

7. The State Must Demonstrate Satisfactory Progress

Section 319(h)(8) provides that no section 319 grant may be made unless EPA determines that the State has made satisfactory progress during the previous fiscal year in meeting the schedule of milestones specified by the State in its nonpoint source management program. The Region will determine, based on review of annual reports, other documents and discussions with the State, whether the State's progress for the previous fiscal year was satisfactory.

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D. Reporting Requirements to be Included in all Grants

All section 319(h) grants are subject to EPA's general grant regulations, 40 CFR Parts 31 and 35, which specify a variety of basic grant reporting requirements for awarding grants to States and localities. The unified grant regulations, 40 CFR Part 31.40 in particular, outline a range of administrative reporting requirements, including performance and financial reports.

Section 319(h) contains additional provisions relating to reporting. These include: (1) section 319(h)(10), which authorizes EPA to request information, data and reports as necessary to determine a State's continuing eligibility to receive section 319 grants; and (2) section 319(h)(11), which requires States to report annually on their progress in meeting milestones, and to report available

information on reductions of nonpoint source pollutant loadings and on improvements to water quality resulting from implementation of nonpoint source management programs.

Regions and States should work together to assure that appropriate reporting requirements are incorporated into each grant, either through specific grant conditions, or within the actual work program document (see Appendix F for generic grant condition language. The specific reporting requirements reflected in that language are discussed immediately below). The Regions and States are encouraged to assess the effectiveness of the reporting process and determine annually if adjustments or modifications are necessary and mutually beneficial.

In general, reporting should be sufficiently detailed to enable a reviewer to ascertain whether outputs and milestones are being achieved on schedule, to identify any problems that may be developing in carrying out tasks in the grant work plan, to identify corrective actions to address such problems expeditiously, and to adequately account for all Federal funds expended.

1. Basic Reporting Requirements

Recipients of funds awarded under section 319(h) of the CWA are required by applicable laws and regulations to provide information to EPA under the following reporting categories described below: (a) performance reports; (b) nonpoint source program progress grant reports; and (c) financial status reports.

Grantee Performance Reports. 40 CFR section 31.40(b)(1) requires States to submit performance reports on the status of section 319(h) grants. In general, States should submit these reports on a semi-annual basis by a date agreed to by the Region and the State. An abbreviated two or three page report per grant should generally suffice to meet this requirement. Nonpoint Source Enhanced Benefits States should submit performance reports only once per year.

In addition, final reports are due 90 days after the expiration or termination of grant support, pursuant to 40 CFR Part 31.

Performance reports should include at a minimum:

- Performance/Milestone Summary: A listing of major program and project accomplishments for the period (based on the project and program milestones or commitments contained within approved work plans, grant agreements, or special conditions/agreements), as well as progress made toward meeting future milestones. (The State may accomplish some or all of this reporting requirement through its annual report discussed below.)
- Slippage Reports: Provide reasons for delays in meeting scheduled milestones/commitments and discuss what actions (State, Federal or other) will be taken to resolve any current or anticipated problems.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns, unanticipated events/consequences, etc.

Nonpoint Source Progress Reports. Section 319(h)(11) of the CWA requires States to report annually on progress in meeting nonpoint source management program milestones, and report available information on reductions in nonpoint source loadings and on improvements in water quality resulting from program implementation. EPA suggests that this information be provided in the following streamlined format:

1. A brief summary of progress in meeting approved milestones and the near- and long-term objectives identified in the State nonpoint source management program.
2. A matrix displaying milestones from the current year for the approved State program with the following information for each milestone:
3.
    a. Applicable project or program
    b. Scheduled project completion date
    c. Percent completed
4. A discussion of the extent to which Federal agencies, lands and activities within the State are supporting the State in meeting approved milestones.
5. To the extent information is available, reductions in nonpoint source loadings achieved.
6. To the extent information is available, the amount of improvement in water quality (including aquatic habitat quality) as the result of nonpoint source program activity.
7. Where information is not yet available under items 4 and 5 above for waters or watersheds where implementation is being assisted, surrogate measures of environmental progress (such as environmental indicators) should be used and progress should be reported in terms of the degree or percentage of completion of the project.

In the past, some States have chosen to include additional information in their annual report, using the report as a means of assessing progress to date and the need to modify the program; providing case studies of particular projects; and conveying information to a broader audience on the activities being conducted by the State. States may continue to include such additional information, as a supplement to the basic information required by law. States may wish to include the following types of information in their reports:

1. Listing of further actions necessary to achieve CWA goals, including any recommendations for future EPA programs to control nonpoint source pollution.
2. Brief case studies of any particularly successful nonpoint source control efforts. (In November 1994, EPA published Section 319 Success Stories, providing information on the effectiveness of a variety of State programs and projects in each State. EPA intends to continue to publish success stories periodically to help broaden public understanding of the accomplishment of this program. States that choose to include success stories in their annual reports would thereby assist EPA in this effort.)
3. Slippage reports providing reasons for delays in meeting scheduled milestones.
4. Information on increases in public awareness of nonpoint source pollution and public involvement in addressing it.
5. Copies of products produced by the State program (e.g., outreach materials or BMP documents).

Financial Status Reports. 40 CFR Section 31.41(b) requires grantees to submit financial status reports using Standard Form 269 or 269(a) to report the status of funds under each grant. In general, financial status reports should be required semi-annually. In the case of Nonpoint Source Enhanced Benefits States, financial status reports should be required only annually. Final financial status reports are due within 90 days after the expiration or termination of the grant agreement.

2. Reporting Procedures and GRTS

EPA has developed a computerized system, the Section 319 Grant Reporting and Tracking System (GRTS), for use by States and EPA in managing and reporting data on section 319 grants. GRTS provides States with the capability to efficiently fulfill grant reporting requirements and provides a database of nonpoint source program information which can be used to enhance State, Regional, and national understanding of nonpoint source projects and programs.

Regions are encouraged to work with their States to design reporting procedures utilizing GRTS that will promote efficiency and eliminate duplication of work. In particular, States are encouraged to use GRTS to submit grantee performance reports pursuant to 40 CFR 31.40(b)(1). States are also encouraged to use GRTS' project description, project evaluation, and other data fields for more complete data management and project reporting purposes. In addition, the Regions should explore ways to coordinate and synchronize the submittal of performance reports of other EPA programs managed within the same State office, e.g., section 106, 104(b), 305(b) and 604(b).

States are required to use GRTS to report the specific nationally mandated data elements listed in Appendix F. These consist of the bare minimum of information needed by EPA to track State grant implementation nationally and to respond to inquires from constituent groups, OMB, and Congress. However, these nationally mandated data elements may be reviewed and individually negotiated by EPA and a State as a part of the National Environmental Performance Partnership System and as a part of a Performance Partnership Grant.

The GRTS system currently contains four basic levels of grantee information:

1. basic information such as grantee name, grant amount, date of award and amount of matching State funds;
2. project descriptions, schedules, and individual project costs;
3. project milestone data comparing proposed schedules with actual events; and
4. sub-milestones which further delineate milestone information.

Since GRTS is an official reporting vehicle for programs or projects conducted by States under section 319(h) grants, its implementation is itself eligible for funding under section 319. Regions and States should work together to ensure that the States are provided sufficient resources in their 319 grants to meet these reporting requirements and management support needs. Examples of GRTS system support needs include: providing adequate staff support; purchasing of necessary ADP equipment, materials, and supplies; EPA mainframe access capability; and attending GRTS system conferences and training.

3. Reporting and Record keeping for Sub-State Organizations

Just as the grant agreement specifies outputs and milestones to be achieved by the States, States should assure that agreements with sub-State organizations specify outputs, milestones, and reporting and record keeping requirements in memoranda of agreement, contracts or other appropriate documents.

Where a sub-grantee will be providing a portion of the State's match, the State should ensure that adequate records are kept with respect to that portion. 40 CFR Section 31.41(a)(2) specifies that grantees shall not impose more burdensome requirements on sub-grantees than they are subject to themselves.

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V. MANAGEMENT AND OVERSIGHT OF SECTION 319(h) GRANTS

As part of its improvement of both the 319 grants program and other EPA grants programs, EPA will use a differential oversight approach that reduces oversight for Nonpoint Source Enhanced Benefits States and focuses attention and assistance on other States. In all cases, EPA's approach will emphasize cooperative partnerships based upon EPA's and States' mutual goal of implementing dynamic and effective national nonpoint source programs designed to achieve and maintain beneficial uses of water.

Regions should strive to use uniform approaches in conducting their evaluations of State programs, progress and problems. To assist Regions in preparing for and conducting their State program reviews, Appendix A contains an outline of evaluation criteria that may be considered by Regions and States in conducting the reviews. Regions should provide a written outline to States at least thirty days in advance of any States program evaluation. States are encouraged, but are not required, to provide written responses to the Regions in advance of the reviews.

For Nonpoint Source Enhanced Benefits States, EPA will rely primarily on the State's own self-assessment, based on the outline presented in Appendix A and supported by the various reports outlined in Section IV-D above. EPA will review the self-assessment and State reports, and then contact the States if EPA desires additional information. EPA will afford substantially reduced oversight and maximum flexibility to a Nonpoint Source Enhanced Benefits State, whether or not the State has chosen to join the National Environmental Performance Partnership System or to seek a Performance Partnership Grant.

For all other States, in addition to reviewing the State's reports, EPA will meet with the State at least annually to discuss the State's progress in implementing its program. Appendix A will be used as a basis for evaluating the progress made by the State in reviewing, upgrading, and implementing its nonpoint source management program. EPA and the State will also discuss ways in which EPA can

better assist the State during the forthcoming year in implementing the State's program. Types of assistance to be considered include support for State efforts to assess water quality problems; support for State design and implementation of watershed projects; technical assistance to help the State monitor the progress and results of watershed projects; and assistance in the development of outreach tools. Subsequent to its annual meeting, EPA will produce a report, with State input and review, that assesses the progress and problems experienced by the State in implementing its program during the preceding year. This assessment will also include EPA's evaluation of the State's progress towards becoming a Nonpoint Source Enhanced Benefits State.

When evaluation results show that grant and contract provisions have not been substantially achieved, the State and Region should work cooperatively to take corrective action. If performance by the State is poor, the Region may be required to determine that the State has not made "satisfactory progress" under section 319(h)(8) and to deny the State's grant application the following year. Other forms of corrective action are described at 40 CFR 31.43.

Where a State lead nonpoint source agency is providing EPA grant funds to other State or local agencies to carry out the terms of a nonpoint source grant, the lead agency remains responsible for all outputs in its section 319(h) work program. Thus, if a local agency has difficulties performing particular funded activities, the Region should work with the State lead agency to resolve the problem.

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VI. GRANTS TO INDIAN TRIBES

This guidance is not specifically directed to Tribal nonpoint source management programs, however, but with the agreement of EPA and the eligible Tribe this guidance may be used for administering section 319 programs and grants. Alternatively, A Tribal Guide to the State Section 319 Nonpoint Source Management Program (USEPA, Office of Water, September 1994) may be used.

Section 518(f) states that the Administrator may reserve for Indian Tribes treated as States not more than one-third of one percent of the amount appropriated for any fiscal year under section 319(j) for section 319(h) and (l). EPA intends to continue to make one-third of one percent of each appropriation available for 319(h) grants to Tribes.

To be eligible for such grants, Tribes must meet the requirements in section 518(e) of the Clean Water Act, 40 CFR 130.6(d) and 130.15, as well as applicable provisions of 40 CFR Part 35. A succinct explanation of the new streamlined approach for Tribes to be treated in substantially the same manner as States are treated for purposes of obtaining various types of financial assistance is presented in 59 FR 13814-18 (March 23, 1994). A step-by-step guide for Tribes seeking section 319 grants is presented in A Tribal Guide to the Section 319(h) Nonpoint Source Grant Program (EPA 841-S-94-003, September 1994).

Tribes, like States must have EPA approved nonpoint source assessments and management programs in order to be eligible for section 319(h) grants. Though all portions of the assessment must be completed in order to be approved by EPA, the Agency may approve a portion of a Tribes' management program. Once a portion is approved, a section 319(h) grant can be awarded for those portions of the management program that have been approved by the Agency. EPA encourages Tribes that are currently unable to develop complete nonpoint source management programs, to focus on their highest priority nonpoint source problems and develop approvable portions of nonpoint source programs to address those problems. In addition, sections 106 and 104(b)(3) funds are available to Tribes for developing assessment reports; section 106 funds may also be used to develop management programs. Technical assistance with the development of assessment and management programs is available from EPA.

Indian Tribes are required to meet the matching and maintenance-of-effort requirements under section 319(h); however, if a Tribe can demonstrate financial cause, the Federal share of 319(h) funds can be increased to 90 percent. In addition, Tribes may use in-kind contributions to meet matching requirements.

APPENDIX A

SUGGESTED OUTLINE FOR ASSESSMENTS OF STATE PROGRAMS

The following suggested outline is designed for use by States and EPA Regional offices in evaluating the progress being made by States in reviewing, updating, revising, and implementing their State nonpoint source programs. The outline reflects the nine key program elements of successful State programs presented in Section III-A of this Guidance. The outline below breaks these elements down into component parts that will assist reviewers in evaluating State program effectiveness in achieving these nine program elements.

This outline may be used as a guide by Nonpoint Source Enhanced Benefits States for their self-assessments (see Section IV-A of this guidance) and by any other State that chooses to conduct a self-assessment, as well as by EPA Regions that conduct assessments of State programs. Regions and States choosing to use this outline may wish to tailor the components of particular elements to ensure that they most appropriately addresses particular regional or State needs.

1. The State program contains explicit short- and long-term goals, objectives, and strategies to protect surface and ground water.

- State program includes a vision statement.
- State has specific long-term goals that are linked to its vision and are directed towards the expeditious achievement and maintenance of beneficial uses of water.
- State has specific short-term (e.g., 1-5 year) objectives, expressed as activities, that are linked to its goals.
- State has identified measures and indicators that will be used to assess the State's success in achieving its goals and objectives.

- State has identified specific, expeditious milestones for its activities.
- State has identified implementation steps and the expected effects of those steps on its water resources.

2. The State strengthens its working partnerships and linkages with appropriate State, interstate, Tribal, regional, and local entities (including conservation districts), private sector groups, citizens groups, and Federal agencies.

- The State uses a State-wide collaborative team, nonpoint source task force, or advisory group, or other appropriate process, to provide for input and recommendations from representatives of Federal, State, interstate, Tribal, and local agencies, private sector groups and citizens groups, regarding nonpoint source program direction, project selection, and other similar aspects of program administration.
- The team, task force or advisory group meets regularly and promotes collaborative and inclusive decision making.
- The State program specifies procedures to provide for periodic public input into the program.
- The State effectively incorporates a variety of organizations and interests into its implementation of nonpoint source activities and projects.
- The State uses its partnerships effectively to avoid the transfer of problems among environmental media.

3. The State uses a balanced approach that emphasizes both State-wide nonpoint source programs and on-the-ground management of individual watersheds where waters are impaired and threatened.

- Annual or multi-year work plans contain nonpoint source implementation actions directed at both specific priority watersheds and activities of a State-wide nature.
- State tracks both State-wide activities and watershed projects.
- State has institutionalized its program beyond the annual implementation of 319-funded activities and projects.
- State uses an integrated watershed approach for assessment, protection and remediation that is well integrated with other water or natural resource programs.

4. The State program (a) abates known water quality impairments from nonpoint source pollution1 State nonpoint source programs should recognize the contribution of atmospheric deposition to nonpoint source-caused water quality problems and take general note of the success of the States' air pollution control programs in reducing atmospheric deposition. States are not expected to abate this source in the context of their NPS management programs. and (b) prevents significant threats to water quality from present and future activities.

- State has comprehensively characterized water quality impairments and threats throughout the State which are caused or significantly contributed to by nonpoint sources.

- State has comprehensively characterized reasonably foreseeable water quality impairments and threats that are likely to be caused by nonpoint source pollution in the future.
- State program addresses all significant nonpoint source categories and subcategories.
- State program has identified specific programs to abate pollution from categories of nonpoint sources which cause or substantially contribute to the impairments identified in its assessments.
- State has identified specific programs to prevent future water quality impairments and threats that are likely to be caused by nonpoint source pollution.

5. The State program identifies waters and their watersheds impaired by nonpoint source pollution and identifies important unimpaired waters that are threatened or otherwise at risk. Further, the State establishes a process to progressively address these identified waters by conducting more detailed watershed assessments and developing watershed implementation plans, and then by implementing the plans.

- State water quality assessments (including those performed under section 305(b), 319(a), 303(d), 314, and others), along with analysis of changing land uses within the State, form the basis for the identification of the State's planned nonpoint source activities and projects.
- State activities focus on remediating the identified impairments and threats, and on protecting the identified at-risk waters.
- State has provided for public participation in the overall identification of problems to be addressed in the State program, and in the establishment of a process to progressively address these problems.
- State nonpoint source priorities are communicated to, consistent with, and reflected in program planning and implementation activities by other water resource management agencies operating within the State.
- State revises its identification of waters and revisits its process for progressively addressing these problems periodically (e.g., once every 5 years).

6. The State reviews, upgrades, and implements all program components required by section 319(b) of the Clean Water Act, and establishes flexible, targeted, and iterative approaches to achieve and maintain beneficial uses of water as expeditiously as practicable. The State programs include:

(a) An mix of water quality-based and/or technology-based programs designed to achieve and maintain beneficial uses of water; and

(b) A mix of regulatory, non-regulatory, financial and technical assistance as needed to achieve and maintain beneficial uses of water as expeditiously as practicable.

The State includes in its program and implements the following eight items:

- Identification of the measures to be used to control nonpoint sources of pollution, focusing on those measures which will be most effective to address the specific types of nonpoint

source pollution prevalent within the State. These measures may be individually identified or presented in manuals or compendiums, provided that they are specific and are related to the category or subcategory of nonpoint sources. They may also be identified as part of a watershed approach towards achieving water quality standards, whether locally, within a watershed, or State-wide;
- Identification of programs to achieve implementation of the measures;
- Processes used to coordinate and, where appropriate, integrate various programs used to implement nonpoint source controls in the State;
- A schedule with goals, objectives, and annual milestones for program implementation; legal authorities to implement the program; available resources; and institutional relationships;
- Attorney General certification (if program is changed substantially);
- Sources of funding from Federal (other than 319), State, local, and private sources;
- Identification of Federal programs and projects that the State will review for their effects on water quality and their consistency with the State program; and
- Monitoring and other evaluation programs to help determine short- and long-term program effectiveness.

The State program also incorporates or cross-references existing baseline requirements established by other applicable Federal or State laws to the extent that they are relevant. Examples include but are not limited to:

- Approved State coastal nonpoint source pollution programs required by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA);
- State Forest Management Practices Acts;
- State construction, erosion or nutrient management laws; and
- Federal or State transportation laws which govern construction site or maintenance pollution runoff.

7. The State identifies Federal lands and activities which are not managed consistently with State nonpoint source program objectives. Where appropriate, the State seeks EPA assistance to help resolve issues.

- The State reviews Federal financial assistance programs, development projects, and other activities that may result in nonpoint source pollution for consistency with the State program.
- The State works with Federal agencies to resolve potential inconsistencies between Federal programs and activities and the State programs.
- Where the State cannot resolve Federal consistency issues to its satisfaction, it requests EPA assistance to help resolve the issues.
- The State coordinates with Federal agencies to promote consistent activities and programs, and to develop and implement joint or complementary activities and programs.

8. The State manages and implements its nonpoint source program efficiently and effectively, including necessary financial management.

- The State's plans for watershed projects and State-wide activities are well-designed, with sufficient detail to assure effective implementation.
- The State's watershed projects focus on the critical areas, and critical sources within those areas, that are contributing to nonpoint source problems.
- State implements its activities and projects, including all tasks and outputs, in a timely manner.
- State has established systems to assure that the State meets its reporting obligations.
- State utilizes the Grants Tracking and Reporting System effectively.
- State has developed and uses a fiscal accounting system capable of tracking expenditures of both 319 funds and non-Federal match.
- Nonpoint source projects include appropriate monitoring and/or environmental indicators to gauge effectiveness.

9. The State periodically reviews and evaluates its nonpoint source management program using environmental and functional measures of success, and revises its nonpoint source assessment and its management program at least every five years.

- The State has and uses a process to periodically assess both improvements in water quality and new impairments or threats.
- The State uses a feedback loop, based on monitoring and other evaluative information, to assess the effectiveness of the program in meeting its goals and objectives, and revises its activities and tailors its annual work plans, as appropriate, in light of its review.
- Using its feedback loop, the State periodically reviews and assesses the goals and objectives of the nonpoint source management program, and revises the program as appropriate in light of its review.
- The State's annual report successfully portrays the State's progress in meeting milestones, implementing BMPs, and achieving water quality goals.

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APPENDIX B

MEASURES AND INDICATORS OF PROGRESS AND SUCCESS

To measure the progress and success of their nonpoint source programs, States will generally need to use at least three sets of measures. These include measures to indicate progress towards (1) the State's overall water quality vision of achieving and maintaining beneficial uses of water, (2) the long-term goals set by the State in its program (e.g., installing appropriate technology at all animal waste facilities that need to be upgraded, or implementing particular watershed projects) and (3) the shorter-term goals and objectives set by the State (e.g., successfully implementing a particular technology).

The following list illustrates measures and indicators which States may choose from or add that will help the States and the public measure the progress and success of their programs. States may identify and use other measures and indicators that are most relevant to their nonpoint source problems, programs, and projects. However, States must at least use the three measures of progress that are identified in section 319(h)(11), i.e., implementation milestones, available information on reductions in nonpoint source pollutant loadings, and available information on improvements in water quality.

Further, well-designed State programs will usually include several appropriate measures and indicators from each of the categories set forth below for each of their projects or program activities. For overall program status and trends, States will generally include measure 1.A. below as part of their section 305(b) reports.

EPA and its State, Federal and other public and private partners have adopted core indicators to report nationally to measure attainment of five specific objectives. These five objectives are preserving and enhancing public health; preserving and enhancing ecosystem health; supporting uses designated by States and Tribes in their water quality standards; conserving or improving ambient conditions; and reducing or preventing pollutants loadings and other stressors. For nonpoint source pollution control, these five objectives are characterized by the measures and indicators presented below.

The categories below are approaches which have been successfully used as water-quality and implementation measures and indicators , as well as measures of enhanced public education, awareness and action. They are presented as examples, not requirements, and should be used as starting points for discussion.

1. Water Quality Improvement from Nonpoint Source Controls
2.
    a. Number (or percentage) of river/stream miles, lake acres, and estuarine and coastal square miles that fully support all designated beneficial uses.
    b. Number (or percentage) of river/stream miles, lake acres, and estuarine and coastal square miles that come into compliance with one or more designated uses (e.g., a river segment that is neither fishable nor swimmable becomes fishable), or with one or more numeric water quality criteria (e.g., achieves a criterion for phosphorus while continuing to exceed a criterion for nitrogen).
    c. Demonstrable improvements in relevant surface and ground water quality parameters.
    d. Demonstrable improvements in biological or physical parameters (e.g., increase in diverse fish or macroinvertebrate populations, or improved riparian areas or other measures of habitat).
    e. Opening of previously closed shellfish beds
    f. Lifting of fish consumption advisories)
    g. Prevention of new impairments (e.g., number of river miles removed from the "threatened" lists, or number of miles of high-quality waters protected).

3. **Nonpoint Source Pollutant Load Reduction**
4.
    a. Reductions in pollutant loadings (e.g., by pounds or percentage) from nonpoint sources in impaired/threatened watersheds.
    b. Reductions in pollutant loadings (e.g., by pounds or percentage) from nonpoint sources in priority watersheds identified by the State.
    c. State-wide reduction in pollutant loadings from nonpoint sources.
    d. In the case of nonpoint source pollution which may result from activities conducted in the future, prevention or minimization of new loadings, and/or offset of new loadings by reductions from existing sources.
    e. Reductions in frequencies, or prevention of increases, of peak flows in developing or developed areas.
5. 3. **Implementation of Nonpoint Source Controls**
6.
    a. Number of measures implemented in watersheds of impaired/threatened waters (e.g., number of on-the-ground practices implemented that reflect, for example, the "best practicable" approach to solve the identified problem.)
    b. Percentages of "needed" measures implemented in watersheds of impaired/threatened waters (e.g., where watershed analysis has shown the need to implement measures at 20 sites, annual progress in implementing a watershed project can be shown by the number of BMPs installed.)
    c. Combination of 2.b and 3.b.
    d. Number of approved or certified plans written to address, e.g., erosion and sediment control, storm water, nutrient management, or pest management.
    e. Percent of watershed covered by plans described in item 3d.
    f. Percent of facilities covered by plans described in item 3d.
    g. Statistically-based survey of implementation rates, e.g. results of State-approved BMP use and effectiveness surveys.
    h. Percent of priority ground water addressed by nonpoint source controls.
7. 4. **Public Education, Awareness, and Action**
8.
    a. Participation rates in education programs specifically directed to solving particular nonpoint source pollution problems.
    b. Statistically-based survey of public awareness, knowledge, and action to measure changes in attitudes and action over time.
    c. Participation rates in various nonpoint source activities, such as citizen monitoring and watershed resource restoration activities.
    d. Participation rates in various public awareness and education efforts.

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APPENDIX C

ELEMENTS OF A WELL-DESIGNED WATERSHED IMPLEMENTATION PLAN

A well-designed plan for a successful watershed implementation project typically includes the following:

1. **Define the Problem**
2.
   - Identification of water quality threat or problem - Information is provided on whether the water resource is threatened or its use is impaired from the nonpoint source assessment report, 303(d) list, 305(b) report, 314(a) list, or a consolidated State water quality assessment report. A State's comprehensive State Ground Water Protection Program or ground water protection strategy may also be a useful sources of information.
   - Critical areas - The approximate size and location of the critical areas to be treated is identified on a map and quantified. The critical areas are of an appropriate size to ensure that the measures implemented will have a significant impact on restoring or protecting designated beneficial uses within the watershed.
3. **Build a Project Team and Public Support**
4.
   - Institutional roles and responsibilities - Roles and responsibilities of agencies active within the watershed are identified, regardless of funding source. All State, local, and Federal agencies that have potential roles to play in assisting ting in the design and implementation of the project are identified and included as appropriate in the project development and implementation process. Where possible, one agency at the local level is identified as the lead agency for the watershed project.
   - Information/education and public participation component - The nonpoint source watershed plan documents how interested and affected publics are or will be involved in the selection, design and implementation of the watershed project. Additionally the educational activities to be conducted in the watershed project are identified, including a schedule. The project also includes a plan for communicating lessons learned to other areas of the State through the Statewide nonpoint source information and education program.
5. **Set Goals and Identify Solutions**
6.
   - Nonpoint source control objectives - The nonpoint source watershed plan describes what is expected to be accomplished in a two to five year period. Objectives relate to all the identified water quality problems, are quantitative, and make progress towards achieving implementation of technology-based measures or achieving or maintaining State water quality standards. For example, where water quality standards are violated and a 75 percent reduction is needed to attain/maintain water quality standards, an objective might be to reduce fecal coliform loadings to a waterbody of 75 percent.
7. **Implement Controls**
8.

- Implementation schedule - A schedule describing the location and type of BMPs and programs to be implemented within the watershed and the projected time of implementation are provided within the plan. The plan also includes an estimate of the costs of the planned activities.

9. **Measure Success**
10.

- Monitoring and evaluation - Utilizing the project goals identified in the work plan, the plan should also provide an appropriate monitoring component to evaluate effectiveness, including ambient effects monitoring, beneficial use assessments, and environmental indicators (see Section II-A of this guidance and Appendix B).

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APPENDIX D

SUGGESTED SCHEDULE FOR ISSUANCE OF SECTION 319(h) GRANTS

Note: The following schedules are presented as goals to accelerate the issuance of section 319 grants and to synchronize them with other Clean Water Act (and other Federal) grants to States. This acceleration is important not only to promote performance partnership grants and the National Environmental Performance Partnership System, but also to accelerate the draw-down of Federal funds in accordance with Congressional intent. Nonetheless, many practical difficulties may impede this acceleration, so EPA Regions and States may make adjustments as necessary.

	FY 97	**FY 98 & BEYOND**
EPA issues brief national guidance including annual planning targets (for planning purposes the President's request level will be assumed)	5/1/96	3/1
States submit draft work plans to EPA Regions	7/1	6/1
EPA Regions provide response to work plans	8/15	7/8
States submit final work plans and grant applications to EPA Regions	9/15	8/1
EPA Regions approve work plans and award grants	11/15	10/1

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APPENDIX E

GENERIC GRANT CONDITION ESTABLISHING

STATE REPORTING REQUIREMENTS

The recipient (name of State lead nonpoint source agency) agrees to comply with all reporting requirements required by EPA regulation and sections 319(h)(10) and (11) of the Clean Water Act. All reporting information will be submitted according to the schedule(s) required in the Parts 31 and 35 regulations and in the "National Nonpoint Source Program and Grants Guidance For Fiscal Year 1997 and Future Years" or as subsequently amended. The three basic reporting categories include: Grantee Performance Reports [40 CFR, Part 31.40(b)(1)]; Nonpoint Source Progress Reports [CWA, section 319(h)(11)]; and Financial Status Reports [40 CFR, Part 31.41(b)].

The recipient agrees to use the Agency's Grants Reporting and Tracking System (GRTS) to provide all nationally mandated data elements listed in Appendix F of the national nonpoint source program and grants guidance. Failure to comply with the above referenced reporting requirements may result in a disruption of grantee funding and/or early termination of the grant agreement in accordance with 40 CFR Part 31.43.

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APPENDIX F

NATIONALLY MANDATED DATA ELEMENTS UNDER SECTION 319

GRANTS REPORTING AND TRACKING SYSTEM (GRTS)*

Data Element Names

- NPS Program or Project Title
- NPS Category
- NPS Functional Category
- NPS Waterbody Type
- NPS Hydrologic Unit Code
- NPS Ground-water Code
- NPS Budget 319(h) Funds
- Number of State Employees (FTEs) by 319(h) Funds Under this Grant
- Amount of 319(h) Funds Allocated to Sub-State Recipients Under this Grant
- NPS Program or Project Start Code/Date
- NPS Program or Project Completion Code/Date

*Note: As described in section IV-D, States are required to use GRTS to report the specific nationally mandated data elements listed in this Appendix. These consist of the bare minimum of information needed by EPA to track State grant implementation nationally and to respond to inquires from constituent groups, OMB, and Congress. However, these nationally mandated data elements may be reviewed and individually negotiated by EPA and a State as a part of the National Environmental Performance Partnership System and as a part of a Performance Partnership Grant.

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APPENDIX G

FACTORS IN PLANNING TARGET FORMULA

FACTOR	DATA SOURCE	WEIGHTING	RATIONALE
I. Statutory set-aside for Indian Tribes	Sec. 106 allocation formula	0.0033	Sec. 518(f)
II. Other *			
Minimum amount for the States and Territories	N/A	0.2643	All States, D.C., and territories receive funds to institutionalize NPS control activities & programs
1988 Section 305(b) Report	1988 Draft - 10/89	N/A	National data used to determine the weighting factors for ag., urban, mining, & forestry as indicated below.
Population	1980 Census 1987 Census (est.)	0.2861	Factors include State fraction of national population, pop'n density, and pop'n growth.
Cropland Acreage	1987 Ag Census 1987 NRI data 1980 Census Data 1986 ASIWPCA NPS Report	0.1581	Cropland is used as a surrogate for sediment and nutrient problems, which account for about 85% of ag NPS problems. Modeling approach based partly on 1986 ASIWPCA national data.
Pasture & Rangeland Acreage	1987 Ag Census	0.0205	Animal units & animal units/farm acre used as surrogate for BOD & bacteria

			problems, which account for about 11% of the ag NPS problem.
Forest Harvest Acreage	EPA	0.0429	Acreage of private & Federal forest harvested annually.
Wellhead Protection Areas	Wellhead Protection Program Allotment Formula-EPA	0.1135	Factors include relative risk to ground water, number or people potentially impacted, number of wellheads to be protected & size of states.
Critical Aquatic Habitats	Dahl, T.E. 1990. Wetland Losses in the United States 1970's 1980's. U.S. Dept. of the Interior, Fish & Wildlife Service, Washington, D.C.	0.0500	State share of total wetland acreage is a meaningful surrogate for critical aquatic habitat since it covers both fresh and saline waters
Other Use Impact - 319(a)	N/A	N/A	All NPS factors for ag., urban, forestry & mining are based upon land-based activities, therefore addressing impaired & threatened waters.
Mining	1987 NRI 1980 RCA Appraisal	0.0572	State's fraction of mined acres as surrogate for mining.
Pesticides	1987 NRI 1986 National Pesticide Usage Data Base, RFF, & EPA	0.0074	Amount & rate of application of active ingredients for pesticides recommended for inclusion in EPA's National Pesticide Survey.

* The weighting for Other Factors is based on the allocation after National set-asides have been subtracted from the total appropriated funds. As a result, the sum of the weighting for Other Factors is unity.

NOTE: These factors are unchanged from EPA's current formula.

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APPENDIX H

SELECTED REFERENCES

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APPENDIX I

NATIONAL MONITORING PROJECTS EXIT Disclaimer FUNDED UNDER SECTION 319

PROJECT	STATE
Lightwood-Knot Creek	Alabama
Oak Creek	Arizona
Morro Bay	California
Jordan Cove	Connecticut
Lake Pittsfield	Illinois
Sny Magill	Iowa
Walnut Creek	Iowa
Eastern Snake River Plain	Idaho
Warner Creek	Maryland
Sycamore Creek	Michigan
Elm Creek	Nebraska
Long Creek	North Carolina
Illinois River	Oklahoma
Pequea and Mill Creek	Pennsylvania

Lake Champlain	Vermont
Puget Sound	Washington
Otter Creek	Wisconsin

Note: For those not familiar with this program, a detailed description of the national nonpoint source monitoring projects is available from EPA.