

III. Nonpoint Source Management Programs

A. Progress to Date

Nonpoint source pollution continues to be, and is increasingly recognized as, the largest remaining threat to water quality and source of water quality impairments in the nation. State nonpoint source programs, originally developed and approved under Section 319 of the Clean Water Act in 1989–90, have developed and matured to meet this challenge. Pursuant to the May 1996 guidance, each State and Territory has upgraded its nonpoint source management program to address nine key elements that had been agreed to by the States and EPA in the May 1996 guidance. These nine elements include explicit short- and long-term goals, objectives, and strategies to protect and restore water quality; strengthened working partnerships with appropriate State, interstate, Tribal, regional and local entities, private sector groups, citizens groups, and Federal agencies; balanced approaches that emphasize both State-wide programs and on-the-ground management of individual watersheds where waters are impaired or threatened; focus on both abating existing problems and preventing new ones; and using a periodic feedback loop to evaluate progress and make appropriate program revisions.

Since 1996, States have enhanced their technical tools and capabilities, strengthened and expanded their partnerships, nurtured a vast network of community-based action on a watershed basis, and, in many cases, developed stronger financial bases and legal support for their programs. As a result, the nation is experiencing increasingly positive results in terms of both on-the-ground action and actual water quality improvements. Examples of these improvements are summarized in *Section 319 Success Stories, Volume III: The Successful Implementation of the Clean Water Act's Section 319 Nonpoint Source Pollution Program* (EPA 841-S-01-001, February 2002). Most of these successes are the direct result of State nonpoint source agencies' cooperation with other governmental agencies, private sector interests, and citizen groups at the State and watershed level.

In addition, to further strengthen our collective efforts to implement successful nonpoint source control programs, the States and EPA have been implementing since FY 2000 a new State/EPA Nonpoint Source Partnership. The purpose of this new cooperative process has been to identify, prioritize, and address the States' needs for technical, programmatic, and financial

assistance to overcome any remaining obstacles to successfully implementing States' nonpoint source programs. The partnership consists of a State/EPA Steering Committee and workgroups to help identify and solve States' highest-priority nonpoint source needs, including: watershed planning and implementation; nonpoint source capacity building and funding; grants management; information transfer and outreach; monitoring; documenting nonpoint source results; rural nonpoint sources; and urban nonpoint sources.

B. Continued Focus on Restoring Waters Impaired by Nonpoint Source Pollution

While we and our partners are achieving considerable success nationwide, significant challenges remain. Since publication of the May 1996 guidance, EPA's and States' nonpoint source programs have continued to evolve to meet these challenges. Beginning in FY 1999, EPA and the States have increased our focus on solving water quality problems in those waterbodies that are most in need of attention, including those waters that remain impaired even after all point source technological controls have been implemented (*i.e.*, those that have been listed by States under Section 303(d) of the Clean Water Act as needing TMDLs).

In FY 1999 and again in FY 2000, EPA asked Congress to double Section 319 funding from \$100 million to \$200 million. The purpose of the incremental \$100 million was to develop and implement watershed restoration action strategies (WRASs) in high-priority "Category I" watersheds (sized at the 8-digit "hydrologic unit code" level). In FY 2001, EPA recognized the need to increasingly focus Section 319 grant dollars on implementing nonpoint source TMDLs or the nonpoint source components of mixed-source TMDLs (hereafter, both of these types of TMDLs will be referred to as "NPS TMDLs"). Based on this need, EPA directed that incremental funds be used to develop and implement approved NPS TMDLs for any 303(d)-listed waterbodies (whether or not these were located within a Category I watershed), as well as to develop and implement WRASs. In FY 2002 and 2003, EPA shifted the focus of the incremental funds entirely to developing NPS TMDLs, developing watershed-based plans to implement the TMDLs, and implementing the plans. The FY 2003 guidelines provided that where a NPS TMDL for the affected waters has already been developed and approved or is being developed, the watershed-based plan must be designed to achieve the load reductions called for in the NPS TMDL. The FY 2003

guidelines further recognized that where a NPS TMDL has not yet been developed and approved or is not yet being developed for the waters, the State may use these funds to develop a watershed-based plan in the absence of the TMDL. In such cases, the FY 2003 guidelines required that the plan be designed to reduce nonpoint source pollutant loadings that are contributing to non-attainment of water quality standards. Once the TMDL is completed and approved, the plan was required to be modified as appropriate to be consistent with the TMDL.

The guidelines published today for FY 2004 and future years maintain the approach of focusing \$100 million of annual Section 319 funds on the development and implementation of watershed-based plans to achieve NPS TMDLs. NPS TMDLs, together with watershed-based plans designed to implement the NPS TMDLs, provide the necessary analytic link between actions on the ground and the water quality results to be achieved. In the absence of such an analytic framework, it is difficult to develop and implement a watershed project that will achieve water quality standards, or to determine causes of failure when that occurs. Therefore, EPA believes that continuing to focus on an analytic and implementation framework that integrates NPS TMDLs, watershed-based plans to implement these NPS TMDLs, and actual implementation of those plans, will provide the most effective means to accelerate achievement of water quality standards.

For these reasons, EPA will continue to implement the general approach that we have developed during the past few years and finalized in FY 2003, using the steps outlined below. These steps are designed to promote the development and implementation of NPS TMDLs based upon the TMDL regulations that have been published at 40 CFR 130.7 in 1985 and 1992, as well as guidance published by EPA to assist in the implementation of those regulations. (Currently applicable guidance as well as other technical and other resources concerning the TMDL program is available at <http://www.epa.gov/owow/tmdl>.)

General Principles for Awarding Section 319 Grants

Each year, EPA will award Section 319 grants in accordance with the following four principles:

1. States may use the "base funds" (*i.e.*, all Section 319 funds other than the "incremental funds" described below) for the full range of activities addressed in their approved nonpoint source