

for enforcement; technical assistance, including staffing; financial assistance; education; training; technology transfer; demonstration projects; and monitoring to assess the success of specific nonpoint source implementation projects.

1. Ground-Water Activities and Source Water Protection Programs

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, these guidelines apply 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.

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, Comprehensive State Ground-Water Protection Program, or Source 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.

EPA encourages States to coordinate their nonpoint source management programs with their source water protection programs. This will assure that programs, authorities, and funding sources to protect sources of drinking water from nonpoint source pollution are appropriately coordinated to maximize the effectiveness and efficiency of both programs' efforts.

2. 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 "phases" of regulations defining what activities are subject to the NPDES permit requirements of Section 402(p)(2) of the Clean Water Act. Phase I, in place since 1990, requires operators of medium and large municipal separate storm sewer systems (MS4s) located in incorporated places and counties with populations of more than 100,000, certain industrial activities, and construction activities disturbing 5 acres of land or more to obtain an NPDES permit to discharge storm water runoff (see 55 FR 47990, November 1990). In 1999, EPA expanded the Federal storm water program with the promulgation of the

"Phase II" rule (see 64 FR 68722, December 8, 1999). Phase II requires operators of small MS4s (non-Phase I regulated MS4s) in "urbanized areas" and small construction activities disturbing between 1 and 5 acres of land to obtain an NPDES permit.

States may use section 319(h) funds for those urban storm water discharges that are not addressed by Phase I and Phase II stormwater program requirements. These include aspects of Phase I and II activities that support but do not directly implement activities required by Phase I or Phase II 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 would generally comply with NPDES permit requirements without obtaining Federal grants. (However, EPA notes that "publicly owned treatment works," which includes publicly owned methods or systems for preventing, abating, reducing, storing, treating, separating or disposing of "storm water runoff" are eligible to receive Federal loans under the State Revolving Loan Fund program.)

3. Abandoned Mine Lands

Abandoned mine land reclamation projects that are designed to restore water quality are eligible for Section 319 funding except where funds are 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 activities that could be eligible for funding 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 problems from abandoned mines.