

4. Animal Feeding Operations

Section 319 funds may be used to support the implementation of a wide range of animal waste storage, treatment, and disposal options for animal feeding operations (AFO) that are not subject to NPDES permits requirements. The NPDES regulations, published on December 15, 2002, may be reviewed at <http://cfpub.epa.gov/npdes/afo/cafofinalrule.cfm>. Any AFO that is defined or designated to be a "concentrated" AFO (*i.e.*, a "CAFO") under 40 CFR section 122.23 is ineligible for funding under Section 319. However, the off-site management of wastes that have been generated by a CAFO and then transported to an off-site facility that is not subject to NPDES permit requirements is eligible for funding if it is managed consistently with the State's nonpoint source management program.

In March 1999, EPA and USDA published the Unified Animal Feeding Operation Strategy (AFO Strategy). (This Strategy is available at <http://www.epa.gov/owm>.) This Strategy discusses the relationship between AFOs and environmental and public health; sets forth a national performance expectation for all AFO owners and operators; and presents a series of actions to minimize public health impacts and improve water quality while complementing the long-term sustainability of livestock production.

The AFO Strategy includes a goal that all AFOs will have comprehensive nutrient management plans ("CNMP's"). USDA and EPA funding assistance programs such as the Environmental Quality Incentives Program and the Section 319 grants program are critical tools to help assure the development and implementation of several hundred thousand CNMP's for non-permitted AFOs in the United States. To this end, Regions must assure that all Section 319 grants that include programs or projects that assist AFOs include a provision (either as a grant condition or through a separate document such as a workplan or BMP implementation plan) to assure that any AFO that receives financial assistance pursuant to the grant has and will implement a CNMP. (Any aspect of a CNMP that is not directly related to water quality concerns—*e.g.*, is related to dust or odor suppression—is not fundable under Section 319 and is therefore excluded from this requirement.)

USDA has developed a variety of practice standards, guidance documents, and other technical assistance tools to assist in the development and implementation of

CNMP's. We recommend that any CNMP for Section 319-funded AFO projects be developed, reviewed, or approved by a person who has been certified through a certification program accepted by USDA or by another equivalent certification program. An "equivalent certification program" may include State programs for certifying private and public sector nutrient management planners.

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. Where a lake is listed as impaired on the Section 303(d) list, Section 319 funding can be used to develop and implement watershed-based plans that contain the information in Section III.D.

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. 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. This policy is fully consistent with the Clean Lakes regulations at 40 CFR 35.1650–2 (5)(i) and (ii) which provide:

The project does not include costs for harvesting aquatic vegetation, or for chemical treatment to alleviate temporarily the symptoms of eutrophication, or for operating and maintaining lake aeration devices, or for providing similar palliative methods and procedures, unless these procedures are the most energy efficient or cost effective lake restorative method.

A recommendation by the Senate Appropriations Committee (see Senate Report 106–161) suggests that each State use at least 5 percent of its Section 319 funds for Clean Lakes activities to address the restoration and protection needs of priority lakes, ponds and reservoirs. We suggest that States give priority to funding:

a. Lake Water Quality Assessment (LWQA) Projects

LWQA projects are projects which are intended to compile a comprehensive statewide assessment of lake water quality, to enhance overall State lake management programs, and to increase public awareness and commitment to protecting lakes. Specific activities might include: developing a statewide

lake monitoring program; developing an integrated Section 305(b) water quality report and Section 303(d) list of impaired waters; building and enhancing the State's lake-related public outreach and volunteer monitoring activities; and developing and enhancing state lakes programs including travel/training for program managers to attend the annual meeting on "Enhancing State Lake Management Programs."

b. Phase 1 Diagnostic/Feasibility Studies

Phase 1 Diagnostic/Feasibility Studies are studies which are intended to: perform comprehensive studies of particular lakes included on State's priority lists including Section 303(d) lists; determine the causes, sources, and extent of pollution to the lake; evaluate possible solutions; and recommend the most feasible and cost-effective methods and measures for restoring and protecting lake resources.

The specific requirements for Phase 1 studies are listed in the Section 314 Clean Lakes Program regulations (40 CFR part 35, subpart H). The Clean Lakes Program regulations are still valid and provide a sound basis for the design of Phase 1 studies, and thus, we suggest that you consult these regulations when you develop work plans for Phase 1 projects. In many cases, Phase 1 studies should provide the basis for the development of a TMDL and watershed-based plan for a particular lake or reservoir.

c. Phase 2 Restoration/Implementation Projects

Phase 2 Restoration/Implementation Projects are projects which are intended to implement lake protection and restoration measures recommended in Phase 1 studies. For lakes that are listed as impaired on the Section 303(d) list, such restoration measures should be integrated into a watershed-based plan that contains the information in Section III.D.

d. Phase 3 Post-Restoration Monitoring Studies

Phase 3 Post-Restoration Monitoring Studies are studies to determine the longevity and effectiveness of various restoration techniques and to advance the science of lake restoration. Funding priorities should support the primary purpose of these studies which is to assess the effectiveness of restoration techniques that have been applied through Phase 2 projects. Lower priority consideration should be given to projects that generally support activities to improve and advance the science of lake restoration and management but are