

not specifically assessing Phase 2 projects.

Section 319-funded Clean Lakes activities should be funded in the same manner as other parts of a State's Section 319 work program, and all operative Section 319 grant requirements and guidelines (including provisions for the use of incremental funds, and reporting on the amount of funding devoted to Clean Lakes activities) will apply to these projects as well. Please note that while a State may decide to fund a LWQA and several Phase 2 studies with Section 319 funds, such funds are included within the overall limitation allowing States to use no more than 20 percent of their entire Section 319 allocation to upgrade and refine their nonpoint source programs and assessments. Additionally, Clean Lakes activities should be funded only in lakes that are publicly owned and that have public access, consistent with the Clean Lakes regulations at 40 CFR 35.1605-3.

EPA has published additional, separate guidance for lakes and reservoirs. (See "Guidance on Use of Clean Water Act and Safe Drinking Water Act Authorities to Address Management Needs for Lakes and Reservoirs," issued July 9, 1998, signed by Robert H. Wayland III, Director, Office of Wetlands, Oceans and Watersheds (available at: <http://www.epa.gov/owow/lakes/policy.html>). This guidance discusses eligibility of lake and reservoir restoration and protection activities under Section 319; listing of impaired and threatened lakes and reservoirs on Section 303(d) lists; and the use of additional funding authorities such as the Clean Water Act State Revolving Fund for implementing priority lake and reservoir management projects in approved State nonpoint source management programs.

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

As noted previously, 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. (A reference document produced by the State-EPA Nonpoint Source Partnership Grants Management Workgroup in March 2003 provides an overview of the Federal requirements for administering Section 319 grants. This document can be found at: <http://www.epa.gov/owow/nps/funding.html>.) All Section 319 grants must be consistent with applicable provisions of Section 319 of the Clean Water Act; EPA's general grant regulations in 40 CFR parts 31 and

35; OMB circulars; and applicable EPA guidelines.

State nonpoint source program managers should note that EPA has most recently revised the grant regulations at 40 CFR part 35 on January 9, 2001. (See 66 FR 1725-1747.) These regulations contain new Sections 35.260-268, that address the purpose of nonpoint source management grants (Section 260); the maximum Federal share (Section 265); the maintenance of effort requirement (Section 266); and some of the award limitations contained in Section 319 (Section 268).

We discuss below some of the most significant criteria that apply to the award of Section 319 grants.

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 Clean Water Act 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 be designed to "implement" the approved nonpoint source management program. Each funded program activity or project must in fact lead to accomplishment of management program objectives that are identified in the State's approved and upgraded nonpoint source management program. Grant work plans must link the funded activities or projects to the relevant element or elements of the States nonpoint source management program.

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

All Section 319(h) grants must be awarded as continuing environmental program grants, consistent with 40 CFR, part 35. 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. However, 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 will 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: "The Federal share of the cost of each management program implemented with Federal assistance * * * in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program 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; rather, a single figure that covers the entire non-Federal share of the costs of implementing a State's Section 319 program. 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 the 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.

Nonpoint source program managers should be aware that recycled State Revolving Funds under Title VI of the CWA can be used to provide a match for Section 319 grants. These are funds that have been loaned by the State and subsequently repaid by the borrower to the State. The repaid funds are then recycled by the State Revolving Fund program to provide loans that fund other water quality projects. These recycled funds are regarded as State monies and therefore are eligible to be used as match for Section 319 funds, provided that they, like any other Section 319 match funds, are used to implement the State's approved Section 319 management program.

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 "persons" only if the costs are related to implementing "demonstration projects." EPA does not interpret this provision to mean that a BMP or management measure may be funded in only one location. A successful or potentially successful approach may need to be assessed and demonstrated in many locations to indicate its widespread utility in a variety of hydro-geological and sociological settings. Moreover, projects should be implemented in a variety of locations within each State so that they may in fact provide education, information, and outreach to others who may wish to avail themselves of the same approaches used in the projects.