

In particular, EPA does not believe that Congress intended to preclude the funding of demonstration watershed projects that may require the State to share the cost of 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. EPA's and the States' experiences during the past decade have demonstrated that watershed problems cannot generally be solved without implementing a comprehensive plan with appropriate measures and practices at appropriate sites throughout the watershed.

Although there have now been an increasing number of nonpoint source success stories that have improved water quality on a very small geographic scale, our nation has generally not yet achieved success in abating or preventing nonpoint source pollution at a scale that achieves the restoration or protection of entire watersheds to meet water quality standards. Thus, at this early stage in our collective attempts to protect and restore watersheds by abating nonpoint source pollution, each State needs to implement watershed-scale projects that demonstrate how to successfully implement nonpoint source watershed-based plans to restore and protect watersheds. For this reason, as discussed earlier in Section III.B of this guidance, EPA is focusing incremental Section 319 funds upon the development and implementation of watershed-based plans to implement NPS TMDLs that will restore water quality.

To ensure widespread implementation of BMPs in demonstration projects in high-priority watersheds, we encourage States to supplement Section 319 cost-share to individuals with additional cost-share from State funds, as well as to work with other funding authorities and persons that can contribute resources. Where such an approach is followed, the total cost-share to an individual from Section 319, State and other Federal (e.g. USDA) funds may not exceed 100% of the total cost of the practice.

#### 5. The State Must Demonstrate Satisfactory Progress

Section 319(h)(8) of the Clean Water Act provides that no Section 319 grant may be made to a State in any fiscal year unless the Administrator "determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2)." Section 319(b)(2) in turn provides that States'

approved Section 319 management programs shall include:

A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

The Region must determine, based on an examination of State activities, reports, reviews, and other documents and discussions with the State in the previous year, whether the State's progress for the previous fiscal year in meeting the schedule set forth in its nonpoint source management program was satisfactory. A very high level of significance should be assigned to the State's development and implementation of watershed-based plans in accordance with these guidelines and in accordance with any schedules that have been established. In addition, for States with approved CZARA programs, successful implementation of CZARA management measures can assist Regions in determining satisfactory progress.

Regions must include in each Section 319 grant (or in a separate document, such as the grant-issuance cover letter, that is signed by the same EPA official who signs the grant), a written determination 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 Regions must include brief explanations that support their determinations.

We discuss States' grants reporting requirements in Section IV.E below. These reports can, if appropriately done, provide much of the written information needed by the Regions to determine whether the States have made satisfactory progress.

#### 6. States Must Maintain Their Level of Effort

Section 319(h)(9) of the Clean Water Act 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 levels 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.)

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

#### 7. 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.

#### 8. Section 319 Grants Must Contain a Condition Requiring Operation and Maintenance

Each Section 319 grant must contain a condition requiring that the State assure that any management practices implemented for the project be properly operated and maintained for the intended purposes during its life span. Operation includes the administration, management, and performance of non-