

manner as a State) in order to be eligible for Section 319(h) grants. EPA is very pleased that to date, more than 80 Tribes, comprising over 70% of all Indian country, have approved nonpoint source assessments and management programs. EPA encourages other Tribes that have significant nonpoint source pollution problems to similarly develop assessments and programs that focus on their highest priority nonpoint source problems. While Section 319 funds may not be used to develop nonpoint source assessments and management programs, other EPA funding programs are available to Tribes to develop nonpoint source assessment reports and management programs. Technical assistance with the development of assessment and management programs is available from EPA.

Section 518(f) states that the Administrator may reserve for Indian Tribes treated similarly to States not more than one-third of one percent of the amount appropriated for any fiscal year under Section 319(j) for Sections 319(h) and (i). In each of the Fiscal Years 2000–2003, Congress has authorized EPA to exceed the 1/3% limitation and EPA has done so. EPA will annually inform the Tribes as to the amount of funding that is available for the forthcoming year. To be eligible for Section 319 nonpoint source grants, Tribes must meet the requirements in Section 518(e) of the Clean Water Act, as well as applicable provisions of EPA's general grant regulations in 40 CFR parts 31 and 35.

Indian Tribes are required to meet the 40 percent matching and maintenance-of-effort requirements under Section 319(h); however, if a Tribe can demonstrate financial cause, its match requirement may be reduced to 10 percent, with the Federal share of Section 319(h) funds increased to 90 percent. In addition, Tribes, like States, may use in-kind contributions to meet matching requirements.

## VII. Waiver Process

Circumstances may arise in which a State believes it is required to develop and submit a work plan for a particular year that fails to meet one or more requirements in these guidelines. If such circumstances arise, and the State believes the circumstances justify a waiver from one or more requirements in these guidelines, the State may submit a request for a waiver to EPA's Regional Water Division Director. The request should identify the requirement from which a waiver is requested; the circumstances requiring the waiver; a description of the activities and projects that the State will be implementing in

lieu of those required by these guidelines; and a commitment to adhere to the guidelines to the greatest extent possible. The Regional Division Director may approve the waiver for the year requested with the concurrence of the Director of the Assessment and Watershed Protection Division (a division of the Office of Water in EPA Headquarters).

This waiver process applies only to the requirements established by these guidelines; it does not apply to any statutory or regulatory requirements reiterated in these guidelines. In addition, this process is not required for any Regional authorization of the use of more than 20% of incremental funds to develop watershed-based plans as discussed earlier in these guidelines in Section III.B.

## Appendix A—Measures and Indicators of Progress and Success

To measure the progress and success of their nonpoint source programs, States will generally need to use at least three sets of measures. These include measures to indicate progress towards: (1) The State's overall water quality vision of achieving and maintaining beneficial uses of water; (2) the long-term goals set by the State in its program (e.g., successfully completing the implementation of a watershed-based plan and achieving water quality standards, or installing appropriate technologies at all animal waste facilities that need to be upgraded within a watershed); and (3) the shorter-term goals and objectives set by the State (e.g., successfully demonstrating a particular technology).

The following list illustrates measures and indicators which States may choose from or add to that will help the States and the public measure the progress and success of their programs. States may identify and use other measures and indicators that are most relevant to their nonpoint source problems, programs, and projects. However, States must report on at least the three measures of progress that are identified in Section 319(h)(11) (i.e., implementation milestones, available information on reductions in nonpoint source pollutant loadings, and available information on improvements in water quality).

Well-designed State programs will usually include several appropriate measures and indicators from each of the categories set forth below for each of their projects or program activities. For overall program status and trends, States will generally include measure 1.A. below as part of their Section 305(b) reports.

The categories below are approaches which have been successfully used as water-quality and implementation measures and indicators, as well as measures of enhanced public education, awareness and action. They are presented as examples, not requirements, and should be used as starting points for discussion.

### 1. Water Quality Improvement From Nonpoint Source Controls

- a. Number (or percentage) of river/stream miles, lake acres, and estuarine and coastal square miles that fully meet all water quality standards.
- b. Number (or percentage) of river/stream miles, lake acres, and estuarine and coastal square miles that come into compliance with one or more designated uses (e.g., a river segment that is neither fishable nor swimmable becomes fishable), or with one or more numeric water quality standard (e.g., achieves a standard for phosphorus while continuing to exceed a standard for nitrogen).
- c. Demonstrable improvements in relevant surface and ground water quality parameters.
- d. Demonstrable improvements in biological or physical parameters (e.g., increase in diverse fish or macroinvertebrate populations, or improved riparian areas or other measures of habitat).
- e. Opening of previously closed shellfish beds.
- f. Lifting of fish consumption advisories.
- g. Prevention of new impairments (e.g., number of river miles removed from the "threatened" lists, or number of miles of high-quality waters protected).

### 2. Nonpoint Source Pollutant Load Reduction

- a. Reductions in pollutant loadings (e.g., by pounds or percentage) from nonpoint sources in watersheds of impaired/threatened waters.
- b. Reductions in pollutant loadings (e.g., by pounds or percentage) from nonpoint sources in high-priority watersheds identified by the State.
- c. State-wide reduction in pollutant loadings from nonpoint sources.
- d. In the case of nonpoint source pollution which may result from activities conducted in the future, prevention or minimization of new loadings, and/or offset of new loadings by reductions from existing sources.
- e. Reductions in frequencies, or prevention of increases, of peak flows in developing or developed areas.

### 3. Implementation of Nonpoint Source Controls

- a. Number of measures implemented in watersheds of impaired/threatened waters (e.g., number of on-the-ground practices implemented that reflect, for example, the "best practicable" approach to solve the identified problem.)
- b. Percentage of "needed" measures implemented in watersheds of impaired/threatened waters (e.g., where watershed analysis has shown the need to implement measures at 20 sites, annual progress in implementing a watershed project can be shown by the number of BMPs installed).
- c. Combination of 2.b and 3.b.
- d. Number of approved or certified plans (e.g., written to address erosion and sediment control, storm water, nutrient management, or pest management).
- e. Percent of the watershed(s) covered by plans described in item 3d.
- f. Percent of facilities covered by plans described in item 3d.
- g. Statistically-based survey of implementation rates (e.g., results of State-approved BMP use and effectiveness surveys).