

# Terms and Conditions

## Programmatic § 319 Grant Conditions – June 2018

### **1) Reporting Requirements**

The recipient agrees to comply with all reporting requirements required by EPA regulation (40 CFR part 35, 2 CFR part 200), §§ 319(h)(10) and (11) of the Clean Water Act, and by the *Nonpoint Source Program and Grants Guidelines for States and Territories* (2013). Failure to comply with the above referenced reporting requirements may result in a disruption of grantee funding and/or early termination of the grant agreement in accordance with 2 CFR part 200.

#### **a) Project Reports**

The recipient agrees to submit reports for all projects identified in the approved work plan, including those performed by the recipient, subgrantees, contractors, and through interagency agreements. Reports shall include a comparison of actual accomplishments to the outputs/outcomes established in the workplan for that period, the reasons for slippage if those outputs/outcomes could not be met, and any other pertinent information such as cost overruns. Reports are due **annually/semiannually** on **insert date** each year until the grant is closed. Reports should be submitted in Grants Reporting and Tracking System (GRTS). In accordance with 200.328(d) the recipient agrees to inform EPA as soon as problems, delays or adverse conditions arise which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. In addition, reports should include the three essential elements:

- Strategic plan Goal 1.0
- Strategic Plan Objective 1.2, and
- Work plan commitments plus timeframe.

A final project report is due to the EPA project officer within 90 days after the end of the Assistance Agreement Project Period. The report must describe project activities and identify and discuss the extent to which project goals have been achieved, and the amount of funds spent on the project. The report should emphasize successes, failures, lessons learned, load reduction data, and should include any available water quality and habitat data demonstrating project results. Acceptance and approval of final project reports is the responsibility of the recipient. Final project reports will be provided electronically as attachments in GRTS, and submitted in hard copy if required. In addition, the GRTS database should be updated to reflect the project status as complete.

#### **b) Annual Nonpoint Source (NPS) Program Report:**

The recipient agrees to provide information required under § 319(h)(11) of the Clean Water Act for the purpose of annual reporting on progress under the State's NPS management program. The § 319 Annual Program Report will be due by **insert date**. At a minimum, the report shall contain a summary of progress, including rationale/evidence, in meeting the schedule of milestones in the approved management program and reductions in NPS pollutant loading and improvements in water quality that has resulted

from implementation of the NPS management program. Failure to submit the annual NPS program report may affect the recipient's eligibility for future § 319 grant funding.

**c) GRTS:**

The recipient shall enter all mandated data elements into the GRTS for NPS projects funded under § 319 of the Clean Water Act, and any other data and/or information required by the EPA according to deadlines specified by EPA.

Initial data entry is due 90 days from award and includes all mandated data elements except the geographic area (if still to be determined), best management practices (BMPs) and load reduction data. The recipient will report BMP and load reduction data as projects are implemented. At a minimum, the BMP and load reduction data will be reported by February 15<sup>th</sup> of each year for projects implementing BMPs in the previous federal fiscal year.

**d) STORET Data Reporting**

The recipient agrees to enter water quality monitoring data, for data collected in a waterbody pursuant to the implementation of a § 319 project, into EPA's "storage and retrieval" (STORET) data system. All water quality data generated with § 319 funding, either directly or by sub-award, are required to be transmitted into the STORET data warehouse using either the Water Quality Exchange (WQX) or WQXweb. When uploading data through WQX or WQXweb, data should be identified as 319 grant related by providing project ID **CWA319** in the data submission. <sup>1</sup>

**e) Programmatic Subaward Reporting Requirement**

The recipient must report on its subaward monitoring activities under [2 CFR 200.331\(d\)](#).

**2) Sufficient Progress/ Satisfactory Progress**

EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project. In determining sufficient progress, EPA may also consider the rate of expenditure of funds (unliquidated obligations), as well as the findings from the most recent § 319 performance and progress determination §319 (h)(8) . (See EPA's *Guidance and Checklist for Determining Progress of State NPS Management Programs and Performance of CWA Section 319 Grants*.)

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<sup>1</sup> If you have an existing project ID, please include this in addition to data collected using 319 funds. Please contact the STORET helpdesk ([Storet@epa.gov](mailto:Storet@epa.gov)) if you need assistance assigning multiple project IDs to a dataset.

### **3) Watershed-based Plans**

Under the § 319 guidelines, use of §319 “watershed project” funds requires that a watershed-based plan which includes all of the information in elements (a)-(i) as described in the § 319 grant guidelines or an acceptable alternative plan be completed prior to implementation of on-the-ground projects. The recipient shall ensure a watershed-based plan or acceptable alternative plan is completed prior to beginning to implement any on-the-ground project with § 319 watershed project funds.

Upon request by EPA, the recipient shall provide a copy of any watershed-based plan or acceptable alternative plan funded under § 319 as well as any available information regarding the status of implementation activities and results, including but not limited to any reports on BMP's implemented; § 319 funds expended; contributions of funds by other sources to assist in implementation of the watershed-based plans (to the extent this information is readily available to the State); results achieved; and other relevant and appropriate information.

### **4) Operation and Maintenance**

The recipient will assure the continued proper operation and maintenance of all nonpoint source management practices that have been implemented for projects funded under this agreement. Such practices shall be operated and maintained for the expected lifespan of the specific practice and in accordance with commonly accepted standards. The recipient shall include a provision in every applicable sub-agreement (subgrant or contract) awarded under this grant requiring that the management practices for the project be properly operated and maintained. Likewise, the sub-agreement will assure that similar provisions are included in any sub-agreements that are awarded by the sub-recipient.

### **5) Maintenance of Effort/**

State expenditures for NPS implementation activities must meet the maintenance of effort (MOE) level required under § 319(h)(9) of the Clean Water Act.

No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding February 4, 1987.

The state should assure that MOE requirements have been satisfied and report this through the final Federal Financial Report (FFR) at the end of the budget period

**6) Required Non-Federal Match**A 40% non-federal program match is required under § 319(h)(3) . The state should assure that the match requirements have been satisfied and report this through the final Federal Financial Report (FFR) at the end of the budget period.

### **7) Limitation on Administrative Costs**

In accordance with § 319(h)(12) of the Clean Water Act, administrative costs in the form of salaries, overhead, or indirect costs shall not exceed in any fiscal year 10 percent of the amount of the grant except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

### **8) Obligation and Outlay of Funds**

In accordance with § 319(h)(6) of the Clean Water Act, the recipient will show commitment to expend the funds awarded in this grant and to complete the funded projects in accordance with its EPA approved Nonpoint Source management program and the approved work plan. The recipient will award all proposed contracts, subgrants and interagency agreements within one year after grant award.

### **9) Public Awareness Options**

<https://www.epa.gov/grants/clean-water-act-section-319-non-point-source-assistance-agreements-public-awareness-terms-and>

#### *I. Outreach Signage Requirements*

If the 319 award includes an outreach component, the recipient agrees to provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo. To obtain the appropriate EPA logo or seal graphic file, the recipient should send a request directly to OPA and include the EPA Project Officer in the communication. Instructions for contacting OPA are available at: <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. The EPA Logo will be displayed meeting the following specifications: [http://www.epa.gov/ogd/tc/epa\\_logo\\_seal\\_specifications\\_for\\_infrastructure\\_grants.pdf](http://www.epa.gov/ogd/tc/epa_logo_seal_specifications_for_infrastructure_grants.pdf). If the physical design of the sign allows, it should also include the following text:

"This project has been funded by the United States Environmental Protection Agency"  
or  
"This cooperative project has been funded in part by the United States Environmental Protection Agency"

Exceptions to including the EPA logo may be made by the Regional 319 Coordinator on recommendation by the State.

#### *II. Announcements*

The grant recipient agrees that announcements through the web or print materials for workshops, conferences, demonstration days or other events as part of a project funded by a 319 assistance agreement shall contain a statement that the materials or conference has been funded by the United States Environmental Protection Agency.

#### *III. Public or Media Events*

The Recipient agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to

construction projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days notice.

#### **IV. Limited English Proficiency Communities**

To increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

#### **10) Permits**

The recipient agrees to ensure that all necessary permits (such as Clean Water Act § 404) are obtained prior to implementation of any grant funded activity that may fall under applicable federal, state or local laws. The subgrantee's project implementation plan must identify permits that may be needed to complete work plan activities. The recipient must keep documentation regarding necessary permits in the project file. EPA approval of a workplan does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity.

#### **11) Participation in Regional and National Meetings**

The recipient agrees to attend NPS Manager's meetings and GRTS users meeting, as scheduled, unless agreed upon in advance by the EPA Project Officer.

#### **12) NPS Success Stories**

The recipient must draft and submit to EPA all applicable NPS program success stories which highlight projects resulting in the restoration of waterbodies. These stories shall be submitted through the success story database in GRTS

#### **13) Substantial Involvement condition**

Substantial Federal involvement with the recipient is anticipated during the performance of the cooperative agreement. This Federal involvement may include:

1. Monitoring by EPA of the recipient's performance.
2. Consultation and collaboration on technical matters that will help the recipient carry out the agreement effectively.
3. EPA's prior review and approval of proposed project phases if developed and the substantive terms of the proposed subawards the recipient enters into to carry out specific elements of the scope of work.
4. EPA's review of the watershed based plans or alternatives.

#### **14) TMDLs Developed Under Section 319 Grant**

For each § 319-funded TMDL, the recipient will provide the following supplemental information to support the load allocations specified in the TMDL: (1) an identification of total NPS existing loads and total NPS load reductions necessary to meet water quality standards, by source type; (2) a detailed identification of the causes and sources of NPS pollution by source type to be addressed in order to achieve the load reductions specified in the TMDL (e.g., acres of various row crops, number and size of animal feedlots, acres and density of residential areas); and (3) an analysis of the NPS management measures by source type expected to be implemented to achieve the necessary load reductions, with the recognition that adaptive management may be necessary during implementation.

**15) Quality Assurance<sup>2</sup>** The recipient agrees to continue to implement and adhere to its EPA-approved Quality Management Plan (QMP) in accordance with EPA QA/R-2, EPA Requirements for Quality Management Plans. If not included under the approved QMP, a stand-alone QAPP is required for those projects/activities that result in the collection and/or generation of environmental information, metrics or data. The recipient agrees to ensure that an approved site specific QAPP is completed for each project. The QAPPs will be reviewed and approved by the Recipient prior to the reimbursement for collection of any environmental information or data. A copy of the approved QAPPs must be retained with the recipient's official records for this Agreement.

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<sup>2</sup> Regions may substitute this condition with a state-specific grant condition on quality assurance

