

# **Applying for and Administering CWA Section 319 Grants:**

A Guide for State Nonpoint Source Agencies

September 2019

**United States Environmental Protection Agency State-EPA NPS Program**

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## Introduction: Purpose and Use of This Manual

The purpose of this manual is to provide an overview of federal requirements that will help guide state and territory nonpoint source agency staff when applying for and administering grants awarded under Section 319(h) of the Clean Water Act (§319). Incorporating the legal, administrative, financial, and programmatic requirements into a single document will help to ensure consistency among the grant distribution processes of the states. In addition, this manual can be used to train new staff who are unfamiliar with §319 and help existing staff through the application and use of §319(h) grant funds. This manual focuses on procedural requirements and does not address all substantive requirements codified in the law or EPA's published nonpoint source program guidelines. The reader should refer to the specific requirements when needed and contact the appropriate U.S. Environmental Protection Agency (EPA) regional project officer to ask specific questions and request up-to-date information on §319 guidance and forms. Appropriate Internet citations are hyper-linked throughout the document and summarized in Appendix A. This guide applies only to state programs.<sup>1</sup>

The document is divided into four chapters: Chapter 1 gives a brief overview of §319 and provides basic information about §319(h) grants. Chapter 2 describes what should be expected during the pre-award phase. It describes the §319(h) grant application process in more detail, focusing on specifications for the state agency application and the work plan that must be submitted to EPA. Chapter 3 presents information on the financial, reporting, and record-keeping requirements associated with the post-award phase of a §319(h) grant. Chapter 4 explains the steps required to close out a §319(h) grant. Appendices with pertinent forms, subrecipient requirements, and additional information are included at the end of this document.

This manual is accurate and up-to-date as of September 2019. It will be updated as needed.

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<sup>1</sup> All future references to "states" indicate both states and territories. For territories, note there are some differences as described in the Omnibus Territories Act: <https://www.congress.gov/bill/114th-congress/senate-bill/2360>. American Indian tribes should refer to EPA's website <https://www.epa.gov/nps/tribal-319-grant-program> for the annual 'Tribal Guidance and the Tribal Nonpoint Source Planning Handbook' (USEPA, 2010).

# Chapter 1: Overview of the Section 319 Program

## 1.1 Purpose of Grants

§319 was added to the Clean Water Act (CWA) in 1987 to establish a national program to address nonpoint sources of water pollution. As the leading cause of water quality degradation in the United States, nonpoint source pollution originates from diffuse or scattered sources rather than a defined point, such as a pipe outlet. Agriculture, forestry, construction, and urban activities are some of the leading sources of nonpoint pollution. As rainfall and snowmelt move over the land, they pick up, carry, and deposit pollutants into ground water and waterbodies such as lakes, rivers, streams, wetlands, and coastal waters. §319(h) specifically authorizes EPA to award grants to states with approved Nonpoint Source Assessment Reports and Nonpoint Source Management Programs. The funds are to be used to implement programs and projects designed to reduce nonpoint source pollution. The state's Nonpoint Source Management Program describes the state program for nonpoint source management and serves as the basis for how funds are spent. In addition to §319 grants, a variety of other funding sources are available under the CWA (e.g., sections 106, 320, and 604(b) and the State Revolving Fund) or through other federal agencies (e.g., Environmental Quality Incentive Program [EQIP] funds from U.S. Department of Agriculture). When applicable, these other funding sources should be used to fund nonpoint source projects.

Each year, §319 funds are allocated to each state according to a national allocation formula based on the total annual appropriation set by Congress for the §319 grant program. The allocation formula is contained in Appendix D of EPA's [2013 Nonpoint Source Guidance](#) (USEPA NPS, 2013)<sup>2</sup>. Since 1999, §319(h) funds have been awarded to state nonpoint source agencies in two categories with different criteria for expenditure. With the 2013 NPS Guidance, these two categories were formalized as "Watershed Project Funds" and "NPS Program Funds." Watershed project funds constitute half of the §319(h) allocation and are intended to be used for implementing NPS activities guided by an accepted nine element Watershed Based Plan (WBP)<sup>3</sup>. Under certain conditions, watershed project funds can also be used to implement acceptable alternatives to a WBP as outlined in the 2013 Nonpoint Source Guidance. The remaining half of the §319(h) allocation are the NPS Program Funds, which can be used to support the wide range of activities identified in a State Nonpoint Source Management Program including staffing, TMDL and WBP development, monitoring, as well as implementing watershed projects .

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<sup>2</sup> In addition to the information provided in appendix D of EPA's 2013 Nonpoint Source Guidance, a more detailed breakout of the formula factors can be found in [Appendix G](#) in 'Nonpoint Source Program and Grants Guidance for Fiscal Year 1997 and Future Years'

<sup>3</sup> EPA identifies nine elements to be included in §319-funded watershed plans for threatened or impaired waters: Identify causes and sources of pollution; estimate pollutant loading into the watershed and the expected load reductions; describe management measures that will achieve load reductions and targeted critical areas; estimate amounts of technical and financial assistance and the relevant authorities needed to implement the plan; develop an information/education component; develop a project schedule; describe the interim, measurable milestones; identify indicators to measure progress; and develop a monitoring component.

## 1.2 Eligibility

The CWA requires EPA to award §319(h) grants to the state nonpoint source agency designated by the governor, to implement its approved Nonpoint Source Management Program to help achieve and maintain beneficial uses of water, such as swimming or fishing. The EPA-approved program plans, are updated every 5 years and provide the framework for determining which activities are eligible for funding under §319(h) (see Eligible Activities section below). In general, activities include non-regulatory or regulatory programs for compliance and enforcement, technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source projects, to the extent these activities are related to controlling nonpoint source pollution. Specific requirements regarding allowable costs are provided in applicable grant regulations.

States receive EPA funding for §319(h) grants to implement specific components of their Nonpoint Source Management Program. States may make funds available to both public and private entities, including local governments, tribal authorities, cities, counties, regional development centers, local school systems, colleges and universities, local nonprofit organizations, state agencies, federal agencies<sup>4</sup>, watershed groups, for-profit groups, and individuals through subawards or contracts as appropriate.<sup>5</sup> The state selects recipients of funding based on its program priorities and selection criteria. States must award contracts consistent with the procurement requirements and state requirements under grants at Title 40 of the Code of Federal Regulations (CFR),-and Title 2 of the CFR. A summary of federal statutes and regulations applicable to states with their associated websites is provided in Appendix A.

Eligible Activities: A state may use §319(h) funds for the following activities, if the activities are included in its approved Nonpoint Source Management Program:

- Updating and refocusing the state Nonpoint Source Management Program and Nonpoint Source Assessments to improve program effectiveness. States should refine their programs to reflect their most pressing needs and highest-priority water quality problems. Activities and analyses that may be funded include establishing indicators and milestones, developing TMDLs and watershed plans, and improving assessment efforts (USEPA NPS, 2013).
- Implementing ground water protection activities. Ground water activities are eligible for §319 grants if they are identified in a state's Nonpoint Source Management Program, Ground Water Protection Strategy, or Comprehensive State Ground Water Protection Program (CWA §319(h)(5)(D); USEPA NPS, 2013).
- Funding urban runoff activities, if activities meet all of the following conditions: (1) The activities are not specifically required by a final National Pollutant Discharge Elimination System (NPDES) permit, and (2) the activities do not directly implement a final NPDES permit. Activities that might meet the above requirements include technical assistance; monitoring to address

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<sup>4</sup> There are some limitations on funding projects on federal land based on federal appropriations law and not inappropriately augmenting an agency's budget (31 U.S.C. §3302).

<sup>5</sup> Subawards to individuals are limited to implementation and demonstration projects.

implementation strategies; best management practices (BMPs); information and education programs; technology transfer and training; and development and implementation of regulations, policies, and local ordinances to address storm water runoff (USEPA NPS, 2013).

- Funding abandoned mine land reclamation projects designed to protect water quality, if those activities meet both of the following conditions: (1) The activities are not specifically required by a NPDES permit, and (2) the activities do not directly implement a draft or final NPDES permit. Activities that might meet the above requirements include remediation of water pollution from abandoned mines or portions of abandoned mines, mapping and planning of remediation, monitoring, technical assistance, information and education programs, technology transfer and training, and development and implementation of policies addressing abandoned mine lands.
- Protecting unimpaired/high quality waters identified in a State NPS Management Program. Where a state has an updated NPS Management Program that identifies protection as a priority and describes its process for identifying such waters, there is flexibility to use a limited amount of watershed project funds for implementing activities to reduce or eliminate current and future threats to unimpaired/high quality waters (USEPA NPS, 2013).
- Implementing lake protection and restoration activities, except for in-lake work such as aquatic macrophyte harvesting or dredging, unless the sources of pollution have been addressed sufficiently to ensure that the pollution being remediated will not reoccur. States are encouraged to use §319 funding for eligible activities that might have been funded in previous years under CWA section 314 (Clean Lakes Program) (USEPA NPS, 2013).
- Support the implementation of a wide range agricultural suites of conservation practices. In the case of animal waste storage, treatment, and disposal options for animal feeding operations (AFO) is eligible if it is not subject to NPDES permit requirements.

In addition, states may use §319(h) funds for inclusion in Performance Partnership Grants (PPGs). PPGs enable states and interstate agencies to combine funds from more than one environmental program grant into a single grant with a single budget (40 CFR 35.130). Recipients need to account for total PPG expenditures subject to the requirements of 40 CFR 35.130; they do not need to account for PPG funds in accordance with the requirements of the funds' original sources. The PPG is designed to:

- Strengthen partnerships between EPA and state and interstate agencies through joint planning, priority-setting, and better deployment of resources.
- Provide state and interstate agencies with the flexibility to direct resources where they are most needed to address environmental and public health priorities.
- Link program activities more effectively with environmental and public health goals and program outcomes.
- Foster development and implementation of innovative approaches such as pollution prevention, ecosystem management, and community-based environmental protection strategies.
- Provide savings by streamlining administrative requirements.

### 1.3 Grant Requirements and Guidelines

§319 grant recipients, including subrecipients, must meet all applicable statutory, regulatory, and other requirements such as grant guidelines documents. Statutory laws are codified in the United States Code and are created and approved by the United States Congress and the President. Federal agencies write regulations, published yearly in the Code of Federal Regulations, to set specific rules that pertain to a particular statute. Table 1 lists some of the requirements in each of these three categories that pertain to §319(h) grants. When applying for §319(h) grants, the state must be familiar with these requirements, as well as EPA's Nonpoint Source Program guidelines. In addition, state-specific requirements and priorities (e.g., procurement requirements, environmental review requirements) must be considered.

It is the responsibility of the state agency to ensure that the grant subrecipients are aware of all applicable regulations and that their projects are in compliance. All §319(h) grants to states must be consistent with applicable provisions of EPA's general grant regulations, including 40 CFR part 35, subpart A.

Table 1. Primary Requirements Applicable to §319(h) Grants.

Categories of Requirements	Sections relevant to Section 319(h) Grants
Statutes	<i>Clean Water Act</i> Sections 101, 205, 208, 303, 319
Regulations	2 CFR Parts 200 and 1500 40 CFR Parts 7, 29, 34, and 35
EPA Grant Guidelines	<a href="#">Nonpoint Source Program and Grants Guidelines for States and Territories, April 2013</a>

This table reflects primary requirements applicable to grants awarded from FY14 forward. See Appendix A for more details.

EPA Nonpoint Source Program Grant Guidelines: Funded activities and projects must also meet specific EPA requirements for §319(h) grants, as described in Nonpoint Source Program and Grants Guidelines for States and Territories<sup>6</sup> (USEPA NPS, 2013). These guidelines highlight requirements from the CWA, 40 CFR part 35, subpart A, and EPA policy. The EPA NPS program grant guidelines describe priorities for funding. Please refer to EPA's website (<https://www.epa.gov/nps/319-grant-current-guidance>) for the latest version. Highlights of specific requirements in EPA's NPS program grant guidelines include the following:

- Approved Nonpoint Source Management Program: Funded activities or projects must lead to accomplishing the objectives stated in the approved Nonpoint Source Management Program (40 CFR 35.260). Grant work plans should link the funded activities or projects to the relevant

<sup>6</sup> Issued on April 12, 2013. These guidelines apply to all §319(h)-funded grant activities beginning in fiscal year 2014.



element(s) of the state's Nonpoint Source Management Program. Work plans should indicate which federal, state, and local agencies are responsible for implementing each project or activity.

- Environmental grants: All grants must be awarded as Environmental Program Grants under 40 CFR 35.101.
- Maintenance of effort: States must maintain their aggregate expenditures from all other sources for programs to control pollution added to the navigable waters in the state and to improve the quality of such waters at or above the average level of expenditures in FY 1985 and FY 1986 (CWA §319(h)(9)). See [Chapter 3: Frequently Asked Questions](#).
- Match: The federal share may not exceed 60 percent of the Nonpoint Source Management Program implementation cost, and the nonfederal share must be provided by nonfederal sources. The nonfederal share for the entire grant must be at least 40 percent (CWA §319(h)(3); 40 CFR 35.265).
- Administrative cost: If the state has received its §319 funds in a §319 grant, the administrative costs may not exceed 10 percent of the funding (CWA §319(h)(12); 40 CFR 35.268). Administrative costs include salaries, overhead or indirect costs for services provided and charged against general activities and programs carried out with the grant. The costs of enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to the 10 percent limitation. This requirement does not apply to a PPG that includes §319 funds (40 CFR 35.134(c)). See [Chapter 3.2: Frequently Asked Questions](#).
- Availability for obligation: §319 states that funds awarded to states will remain available for the entire fiscal year for which the funds were awarded.<sup>7</sup> EPA has interpreted §319(h)(6) to provide that §319 funds granted to a state shall remain available for obligation to subrecipients by the state for one year from the grant award. In the event that state regulations cause a potential delay in obligation of funds, the state should work closely with the Regional coordinator to resolve any concerns in obligation of funds.
- Evaluation and reporting: States are required to meet annual reporting requirements and Grants Reporting and Tracking System (GRTS) requirements. See [Chapter 3.111](#) for more detail on reporting requirements and GRTS.
- Satisfactory progress: The Regional Administrator may not award §319 grant funds to a state unless the Regional Administrator determines that the state has made satisfactory progress during the previous fiscal year in meeting the schedule of milestones specified in the state's Nonpoint Source Management Program (CWA §319(h)(8)). The EPA regional office issues a

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<sup>7</sup> The term obligate does not mean "to expend"; it means that the state must commit the §319(h) funds to be expended. EPA defines an obligation (by a recipient) as "the amount of funds which a recipient legally earmarks for expenditure through orders placed, payrolls, subagreements awarded, travel authorizations and other transactions" (USEPA NPS, 2013).

written determination that the state has made satisfactory progress during the previous fiscal year and includes it in each §319 grant, or in a separate document prior to award of the grant.

- Cost-sharing and demonstration projects: States may use §319(h) grant funds for cost-sharing<sup>8</sup> to persons only if the costs are related to implementing demonstration<sup>9</sup> projects (CWA §319(h)(7); 40 CFR 35.268). 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 (US EPA NPS, 2013).

#### 1.4 Overview of the 319(h) Grant Process

Although this document is intended for state nonpoint source agencies, it is important to understand the major roles that EPA and subrecipients also play in the grant process. Figure 1 illustrates the “big picture” of the 319(h) grant process by showing the interrelationship of the roles of EPA, the state nonpoint source agency, and the subrecipients. The specific timing of the steps in the grant process varies by state and region, and depends on when Congress approves EPA’s annual budget.

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<sup>8</sup> Demonstration projects are a tool often used to show the overall effectiveness of an adopted approach in solving a particular water quality problem. They may be funded in a variety of locations because doing so can demonstrate the projects’ utility in a watershed’s various hydrogeological and sociological settings.

<sup>9</sup> In high-priority watersheds, states may supplement section 319 cost-share to individuals with additional cost-share from state funds. When such an approach is followed, the total cost share to an individual from section 319, state, and other federal (e.g., USDA) funds must not exceed 100 percent of the total cost of the practice and be in compliance with all other applicable funding requirements (USEPA NPS, 2013).



## Chapter 2: Federal Requirements for Pre-Award and Application Phase

Each year, Congress appropriates funds to EPA for the §319 grant program. A portion of this amount is allocated for tribal grants; the remainder is allocated to the state nonpoint source agencies according to a national allocation formula. Once EPA has a final budget, EPA notifies the states of their §319 grant allocations. EPA headquarters provides funds to the EPA regions, which are then awarded to states based on approved work plans. A state may award funds through subawards (contracts or subgrants) to other entities in accordance with the state's Nonpoint Source Management Program and procurement requirements.

### 2.1 Timeline

While the exact dates for the application schedule vary from state to state, the EPA regional office and the state should agree to a more detailed schedule. State nonpoint source agencies establish a similar schedule for soliciting project proposals from subrecipients. For more information on a specific state's Nonpoint Source Program and schedule, please see: <https://www.epa.gov/nps/contacts-nonpoint-source-nps-pollution-programs>. The general schedule for coordinating the §319(h) grant application with EPA is as follows.

Before receiving a §319(h) grant:

- A state must meet the requirements described in chapter 2 of this guide, including federal requirements, under the CWA, Titles 2 and 40 of the CFR, and EPA NPS grant program guidelines, as highlighted previously in Table 1.

During the application phase, the applicant is encouraged to fulfill the following roles and responsibilities:

- Seek informal or formal assistance to answer questions concerning the technical or administrative requirements of the grant.
- As appropriate, informing subrecipients of the federal requirements that they must meet. These requirements are outlined in Chapter 3.
- Respond to inquiries from the EPA project officer and EPA grants management office concerning the application.
- Revise the application based on comments received from the EPA project officer and EPA grants management office.
- Demonstrate their acceptance of the award by either not protesting it within three weeks or by taking a drawdown of funds.<sup>10</sup>

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<sup>10</sup> [Amended Grants Policy Issuance \(GPI\) 12-06: Timely Obligation, Award and Expenditure of EPA Grant](#), Section 8.1.

## 2.2 Preparing an Application

Each state §319(h) grant application package must include the appropriate application forms, work plan, and project costs (40 CFR 35.104, 2 CFR 200 and 1500). The application must be submitted at least 60 days before the beginning of the proposed funding period (40 CFR 35.105).

[Appendix B](#) includes a list of applicable forms and a “cheat sheet” with directions on submitting the application through <https://www.Grants.gov> and at <https://www.epa.gov/grants/epa-grantee-forms>.

Information regarding specific federal requirements that apply to state recipients of federal funds, such as nondiscrimination, lobbying, and maintaining a drug-free workplace can be found in [Appendix A](#).

## 2.3 Work Plan

The work plan is a part of the grant application and is negotiated between the grant applicant and the EPA project officer and managers. It reflects consideration of such factors as national program guidance; goals, objectives, and priorities proposed by the applicant; and other jointly identified needs or priorities. It must identify priority activities from the Nonpoint Source Management Program for funding in the next fiscal year and is the basis for management and evaluation of performance under the grant.

The work plan must specify the following, consistent with 40 CFR 35.107, 35.115, and 35.268:

- Work plan components to be funded under the grant. A work plan component is a negotiated set of work plan commitments established in the grant agreement. A work plan may have one or more work plan components.
- The estimated work years (i.e. personnel time) and estimated funding amounts for each work plan component.
- The work plan commitments for each work plan component and a time frame for accomplishment of commitments. Work plan commitments are the outputs and outcomes associated with each work plan component, as established in the grant agreement. The work plan must be consistent with applicable federal statutes, regulations, and executive orders and with EPA delegations, approvals, or authorizations (40 CFR 35.107(b)(3)). It should also be consistent with EPA’s NPS program grant guidelines.
- A performance evaluation process and reporting schedule in accordance with 40 CFR 35.115. The joint evaluation process must provide for:
  - Discussion of accomplishments as measured against work plan commitments.
  - Discussion of the cumulative effectiveness of the work performed under all work plan components.
  - Discussion of existing and potential problem areas.
  - Suggestions for improvement, including, where feasible, schedules for making improvements.

- EPA will ensure that the required evaluations are performed according to a negotiated schedule and that copies of evaluation reports are placed in official files and provided to the recipient (40 CFR 35.115(d)).
- The roles and responsibilities of the state and EPA in carrying out the work plan commitments.
- In work plans that include significant watershed projects (where costs exceed \$50,000), a brief synopsis of the watershed implementation plan outlining the problem(s) to be addressed, the project goals and objectives, and environmental indicators or performance measures to be used to evaluate the success of the project (40 CFR 35.268).

In addition to considerations listed as part of an overall review, technical soundness and adherence to the state NPSMP and Watershed Based Plan elements are part of the workplan evaluation (US EPA NPS, 2013).

## 2.4 Budget

The budget provides estimated costs to accomplish the activities included in the work plan. These costs must be necessary, reasonable, and consistent with federal cost principles and policies. The following are descriptions of different types of costs. 2 CFR Part 200 Subpart E identifies allowable costs, some of which are highlighted here.

- Indirect (facilities and administrative) costs: Administrative costs include salaries, overhead, and direct or indirect costs for services provided and charged against activities and programs carried out with §319 funds. Only 10 percent of funding in a §319 grant may be used for administrative costs. The cost of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs are not subject to the 10 percent limitation (CWA §319(h)(12); 40 CFR 35.268; USEPA NPS, 2013). This limitation on administrative costs does not apply to PPGs that include §319 funds.
- Direct costs: Direct costs are costs directly related to accomplishing the project, and they may include administrative costs. Direct costs include personnel, the purchase of equipment, supplies, materials, contracts, and travel.
- Equipment: Equipment costs greater than \$5,000 per unit must have prior EPA approval (2 CFR 200.313, and 200.439). States should discuss equipment purchases with the EPA regional office as early in the application process as possible.
- Indirect costs: The state must have a state-approved indirect cost rate proposal and provide a copy to EPA. This document substantiates the basis for costs that are common or joint to more than one cost objective. (2 CFR 200.56) All indirect costs are considered Administrative.
- Personnel costs: This category includes only direct costs for the salaries, wages, and allowable incentive compensation for those individuals who are employees of the applicant's organization who will perform work directly for the project. Employees receive W-2 forms for Federal tax purposes. The costs should be broken down by job classification (e.g., laborer, scientist,

volunteer). Multiplying cost per hour by number of hours worked yields the total personnel costs. 2 CFR 200.444

- Fringe costs: Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. (2 CFR 200.431)
- Matching funds: For §319 grants to states, EPA may provide up to 60 percent of the approved work plan costs in any fiscal year<sup>11</sup>. For PPGs that include §319 funds, the cost-share attributable to the 319 funds included in the PPG is either the amount of funding required to meet the §319 match requirement or the amount of funding required to meet the maintenance of effort requirement, whichever is greater. The nonfederal share of costs must be provided from nonfederal sources (CWA §319(h)(3), 40 CFR 35.265, and 2 CFR part 200.306, USEPA NPS 2013). With the qualifications listed in section 2 CFR part 200.306, a matching or cost-sharing requirement may be satisfied by either or both of the following:
  1. Allowable costs incurred by the grantee, subawardee, or a cost-type contractor under the assistance agreement. These include costs borne by nonfederal grants or by cash donations from nonfederal third parties.
  2. The value of third-party in-kind contributions (e.g., donated personnel time, supplies, equipment) applicable to the period to which the cost-sharing or matching requirements apply.

The following items may not be used as matching funds:

- Other federal funds, including in-kind services by staff, other than those which are available to match other federal grants by law.
- Unallowable costs for the project/program (e.g., lobbying).

The required nonfederal match can be calculated in two steps:

1. The federal share divided by the federal percentage equals the total project cost.
2. The total project cost minus the federal share equals the recipient's share.

### ***EXAMPLE***

$\$75,000$  (federal share)  $\div$  60% (federal percentage) =  $\$125,000$  (total project cost)

$\$125,000$  (total project cost) -  $\$75,000$  (federal share) =  $\$50,000$  (recipient share)

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<sup>11</sup> For territories - note there are differences in match requirements as described in the Omnibus Territories Act: <https://www.congress.gov/bill/114th-congress/senate-bill/2360> .

## 2.5 Terms and Conditions

A nationally-consistent list of §319 grant Terms and Conditions are used by the EPA regions as a basis for the final terms and conditions contained in each state §319 grant award. There may be additional terms as agreed to by Regions and states. As a part of the grant award, there is also a set of general terms and conditions. These terms and conditions are administrative and apply to all EPA grants. See <https://www.epa.gov/grants/grant-terms-and-conditions#general>.

## 2.6 Frequently Asked Questions: Pre-Award and Application Phase

### **Q. What is the Assurances form and is it required for §319(h) grants?**

A. The Assurances form is Standard Form 424B (Appendix D). Applicants for §319(h) grant funds must sign this form to certify that they will be able to meet the federal laws and other requirements applicable to all federally assisted projects (e.g., Davis-Bacon Act, Hatch Act, National Environmental Policy Act, National Historic Preservation Act). These requirements are listed and explained on Standard Form 424B. On February 1, 2020, it is anticipated that EPA will discontinue the use of SF-424B and only accept completed representations and certifications within SAM.gov to satisfy the requirements of [RAIN-2018-G07-R](#), *Full Application Submission with Initial Proposal Submission Requirement*.

### **Q. Do I have to identify all the sources of Matching funds up front? Or can I just report it at the closeout?**

A. As part of the schedule/milestones in the workplan proposal, include anticipated activities that would be considered a source of matching funds. The nonfederal match does not need to be contributed at the time of the grant award, but the funds must be contributed as needed to meet the schedules established in the work plan milestones and must occur during the project period of the grant award. EPA regions must verify that grantees have satisfied the match requirements upon review and submittal of the grantee's final federal financial report.

### **Q. Do I have to apply through Grants.gov?**

A. Yes, the initial application must be submitted to EPA through Grants.gov. EPA will ensure that the funding package available on Grants.gov has the necessary forms to include as part of the application package; <https://www.epa.gov/grants/how-apply-grants> will include any updates on the application process.

### **Q. When do the wage rules set forth in the Davis-Bacon Act apply to §319 funds?**

A. The Davis-Bacon Act is applicable only to §319 grants that fund construction of treatment works. CWA §212 defines construction and treatment works for grants under Title II. Although the §212 definition can be used as a guide for determining whether a project is a treatment works for purposes of §319(h) grants, the §212 definition includes items that may not be “treatment works” in common understanding (e.g., storage facilities that do not provide treatment). For such projects, the Davis-Bacon Act (40 U.S.C



§§ 176a–276a-7) requires that wages for laborers and mechanics working on specific, federally funded projects be set at the current wage rate for that region. Specifically, the act requires that each contract over \$2,000 for the construction, alteration, or repair of public buildings or public works follow the minimum wages to be paid to various classes of laborers and mechanics employed under the contract.

**Q. Are the requirements in the National Environmental Policy Act applicable to §319 funds?**

A. No. CWA §511(c)(1) states that the only EPA actions under the CWA subject to the NEPA requirements for “major federal action significantly affecting the quality of the human environment” are new source permits and grants for the construction of publicly owned treatment works. §319 grants do not fit within either category and are therefore not subject to NEPA requirements.

**Q. I am trying to locate Standard Form XYZ. Where can I get a copy?**

A. Copies of all EPA required federal forms can be found at <http://www.grants.gov/web/grants/forms.html> or <https://www.epa.gov/grants/epa-grantee-forms>. Not all forms listed are required for §319 grants.

**Q. Is there a required format for a state work plan?**

A. The state may use any format it chooses, as long as the required information is included and meets the needs of EPA’s regional office. The state is encouraged to consider the following components and approaches:

- Include a narrative description or introduction of the approach taken for each of the major work plan categories.
- Clearly identify the output or product, including the due date, that will result from each activity.
- Keep the master work plan and budget up-to-date, and report any changes in accordance with 40 CFR 35.114.
- Discuss work plan and budget revisions with EPA before making changes. Assign numbers to work plan revisions for easy tracking.
- Appropriate monitoring and assessment of work plan activities, including watershed project implementation, is an essential component of evaluating the effectiveness of a nonpoint source program. The work plan should include specific assessment activities.

**Q. What elements must a state include in developing and implementing a successful Watershed Based Plan (WBP) using 319 funds?**

A. The state should incorporate the following nine elements listed in the nonpoint source guidance for fiscal year 2014 (USEPA NPS, 2013):

- An identification of the sources that will need to be controlled to achieve load reductions established in the state’s nonpoint source TMDL or any other goals identified in the WBP.
- An estimate of the load reductions expected from the management measures described.

- A description of the nonpoint source management measures needed to achieve load reduction and identification of the critical areas in which the measures will need to be implemented to achieve the nonpoint source water quality goals.
- An estimate of the assistance (financial and technical) and authorities the state anticipates having to rely on to implement the plan.
- An information/education component, which the state will use to enhance public understanding of the project and encourage public involvement in the nonpoint source management measures.
- A schedule for implementing the nonpoint source management measures identified in the plan.
- A schedule of interim, measurable milestones that can be used to determine whether nonpoint source management measures or other control actions are being implemented.
- A set of criteria that can be used to determine whether substantial progress is being made toward the water quality standards and, if not, criteria that will help to determine whether the nonpoint source TMDL should be revised.
- A monitoring component to evaluate how effective the implementation efforts are as measured against the set of criteria developed as described previously.

## Chapter 3: Post-award Federal Requirements for State Grants: Implementation Phase

After receiving a §319(h) award, states must meet several federal requirements in Titles 2 and 40 of the CFR, and EPA NPS program grant guidelines and [EPA Grants Policies](#)<sup>12</sup>. The following are highlights of specific financial, reporting, terms and conditions and other requirements that apply to state recipients of federal funds.

### 3.1 Federal Requirements

#### 3.101 Competition

2 CFR 200.319 requires that all procurement transactions be conducted in a way that provides open and free competition. Purchases for projects must be made on a competitive basis to ensure that fair and reasonable prices are obtained for goods and services. Federal regulations require documentation of cost or price analysis in connection with every procurement action regardless of amount. Additional details are provided under “Methods of Procurement” following this section. EPA Grants Policy Issuance 16-01 (Sub-awards Policy) Section 10 provides additional clarification on competition including restrictions regarding EPA participation in sub-award competitions.<sup>13</sup> See [Appendix A](#) for additional EPA policy documents.

#### 3.102 Conflict of Interest

2 CFR 200.318(c) requires standards of conduct to avoid conflict of interest. Recipients of federal funds may not participate in the selection, award, or administration of a contract if real or apparent conflict of interest would result. Conflict of interest would arise if an employee, organization officer, agent, immediate family member, partner, or organization that employs any of the above-mentioned persons (1) has a financial (or other interest) in a firm selected for award or (2) solicits or accepts gratuities, favors, or items of monetary value from contractors or subrecipients. Disciplinary actions are required for violations of standards of conduct. EPA’s Financial Assistance Conflict of Interest Policy is available at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>

#### 3.103 Copyrights

2 CFR 200.315 grants EPA a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for federal government purposes, (1) the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant and (2) any rights of copyright to which a grantee, subawardee, or contractor purchases ownership with grant support.

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<sup>12</sup> <https://www.epa.gov/grants/epa-policies-epa-grant-recipients> is a useful reference to keep current on policies.

<sup>13</sup> As required by Title 2 of the Code of Federal Regulations (CFR) section [200.112](#), EPA has established the following final policy governing disclosure of actual and potential conflicts of interest (COI Policy): <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>.

### 3.104 Financial Specifications

Financial requirements for states and subrecipients of §319(h) grant funds are categorized into allowable costs, matching funds, and state-specific requirements regarding the payment process.

- Allowable costs: All costs charged to EPA grants must be eligible, necessary, and allocable for performing the tasks outlined in the approved project work plan. The costs, including match, must be incurred during the period of performance of the project. The costs also must be allowable, meaning that they must conform to specific federal requirements (2 CFR 200.400-475 establishes the principles for determining allowable costs). In addition, costs must be adequately documented.
- Financial management: 2 CFR part 302 lays out the expectations for grantees to document and manage transactions. 2 CFR part 331 requires that subrecipients meet specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management. Note that EPA Grants Policy Issuance 16-01 (Sub-awards Policy) Section 10 provides additional clarification on financial monitoring of subrecipients.<sup>14</sup>
- Audits: When the total amount of all federal grant funds exceeds \$750,000, a single or program specific audit is required in accordance with the specifications of 2 CFR 200 Subpart F. In addition, projects are subject to independent audits by EPA's Office of the Inspector General at any time. They may also be reviewed periodically by EPA's accounting and grants management staff to ensure proper management of grant funds. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not federal awards. Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a federal award or a payment for goods or services provided as a contractor (Section § 200.330).
- Matching funds: Matching funds are the portion of the allowable project costs that the grant recipient (or third party) contributes to a grant or cooperative agreement. State recipients of §319(h) grant funds must provide a nonfederal match as described in Chapter 2. All matching funds must be included in the project work plan and budget, as well as be included in the grant's "total project costs." All matching funds must conform to the same laws, regulations, reporting requirements and grant conditions as the federal funds in the grant (CWA §319(h)(3), 40 CFR 35.265, and 2 CFR part 200.306(4)).
- Payment processes: Payment to state nonpoint source agencies for §319 (h) grant-sponsored activities is usually made through an electronic fund transfer on a reimbursement or an advance payment basis. The state must maintain the expense details and make them available on request. EPA's payments for designated individual contractors (excluding overhead) retained by the state or for subrecipients' contractors (or subcontractors) are limited to the maximum daily rate for a level IV of the Executive schedule available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (to be adjusted annually). The 2019 rate is set at \$638.16

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<sup>14</sup> <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>

per day and \$79.77 per hour. This amount does not include transportation and subsistence costs, in accordance with normal travel reimbursement practices. States or sub-awardees may pay consultants more than this amount, but the excess amount may not be paid with federal grant funds. State-determined payment processes are used to pay subrecipients. The length of time for subrecipients to receive payment from states varies by state (Public Law 99-591, 2 CFR 200.305).

- Roles and responsibilities of states within the payment process: These include the following (2 CFR part 200.302 et. seq.):
  - Maintaining records that adequately identify the source and use of funds for the federally sponsored activities.
  - Maintaining effective control over and accountability for all federal funds, property, and other assets.
  - Routinely comparing actual expenditures with budget amounts for each federally sponsored project or program.
  - Setting procedures for determining the reasonableness, eligibility, and allowability of costs.
  - Maintaining financial records that are supported by original source documentation (e.g., invoices, canceled checks, receipts, timesheets, contracts).
  - Providing accurate, current, and complete disclosure of financial records of the federally sponsored project or program, as requested by EPA.
  - Minimizing the elapse of time between a transfer of funds from the U.S. Treasury and disbursement whenever advance payment procedures are used.

### 3.105 Operation and Maintenance

Grant recipients are obligated to continue operating and maintaining management measures and practices that have been funded with §319 funds. Grantees must also include in subawards a provision that the subrecipient will also properly operate and maintain practices implemented through a 319 project (USEPA NPS, 2013 Appendix F, #9 page 76).

### 3.106 Post-Award Changes

Amendments and other changes to the grant are governed by 40 CFR 35.114 and 2 CFR 200.308. For significant changes to the work plan commitments, the state must obtain the prior approval of EPA in writing. EPA, in consultation with the state, will document these revisions, including budgeted amounts associated with the revisions. Any approved changes should be reflected in GRTS.

### 3.107 Procurement Methods

Grant recipients may use their own procurement procedures provided that the procedures conform to applicable federal laws and standards as described in 2 CFR 200.317-331, (e.g., contract administrative

system, written code of conduct). Grants and subawards may not be made to any party that has been debarred or suspended or is considered ineligible for participation in federal assistance programs.

The grantee may contract or subcontract funds to an eligible recipient based on purpose and state procurement systems. See 2 CFR part 200.22 and 200.92 (definitions) for federal definitions and requirements of contracts and subgrants 2 CFR 200.330, and 331. Examples of methods that may be used in conjunction with §319(h) grants are small purchase procedures, sealed bids, competitive proposals, and noncompetitive proposals. Also refer to EPA's Subaward Policy at: <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients> for more detail on federal requirements.

- Contracting with Small and Minority Businesses: Recipients of §319(h) grants that employ subcontractors must take steps to ensure that minority and women-owned firms are used when possible. Steps are identified in 2 CFR 200.321.
- Subgrants: A state must follow requirements beginning at 2 CFR part 200.330 et. seq., when awarding and administering subgrants to tribal and local governments. The state must also follow its own laws and procedures and must: (1) include a provision in a subgrant to ensure that subgrantees are aware that they must comply with applicable requirements mentioned in (2) and (3) that follow; (2) ensure that every subgrant includes any clauses required by federal statute; and (3) ensure that subgrantees are aware of federal requirements imposed on them by accepting the agreement.

### 3.108 Property Management

Property management and procedures are detailed in 2 CFR 200.310 – 315 (e.g., equipment). Property purchased in whole or in part with federal funds should be properly managed (e.g., inventory, control system, maintenance, and disposition). Depending on acquisition costs, different requirements might apply.

### 3.109 Quality Assurance

§319(h) grant projects often include monitoring components to measure the effectiveness of the project. When environmental data are being collected during the course of a §319 project, a Quality Assurance Project Plan (QAPP) must be developed (or existing QAPP referenced) in accordance with specific EPA NPS program grant guidelines (USEPA NPS, 2013, Appendix F page 75). QAPPs outline the procedures that a monitoring project will use to make sure that samples are collected, data are stored, and reports are written to ensure the quality of data will meet the needs of the project. QAPPs must be approved by EPA or the state agency before sampling and monitoring begin. Specific QAPPs should be discussed with the regional EPA project officer<sup>15</sup>. Specific guidelines on writing a QAPP are provided on

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<sup>15</sup> In most cases projects would be covered by a state level QAPP which would be incorporated by reference. A project specific QAPP is required if projects involve activities using a different methodology than what is in the state data collection and analysis protocols.

EPA's website at <https://www.epa.gov/quality/epa-qar-5-epa-requirements-quality-assurance-project-plans>

### 3.110 Record-Keeping Specifications

§319 grant recipients are required to retain all records pertaining to federally sponsored activities or projects for 3 years (unless involved in legal activity or separate arrangements have been made with awardees and subrecipients) after the date of submission of the final financial status report or final date of reconciliation of outstanding issues (2 CFR 200.333). The records must be available and accessible to EPA (or to the state in the case of subawards), for review or audit as requested. The state should ensure that agreements with subrecipients specify outputs, milestones, and reporting and record-keeping requirements in memoranda of agreement, contracts, or other appropriate documents. Where a subrecipient will provide a portion of the state's match, the state should ensure that adequate records are kept with respect to that portion.

### 3.111 Reporting Specifications

All §319(h) grants are subject to the general grant regulations found under 2 CFR part 200 (*Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*), and 2 CFR 1500 as applicable, and 40 CFR part 35, subpart A (*Environmental Program Grants*), which specify various basic grant reporting requirements for awarding grants to states and localities. §319(h) (10) and (11) contain additional provisions related to reporting:

- 319(h)(10): Authorization for EPA to request information, data, and reports as necessary to determine a state's continuing eligibility to receive §319 grants.
- 319(h)(11): Requirement for states to report annually on their progress in meeting milestones, including available information on reductions of nonpoint source pollutant loadings and on improvement to water quality achieved by implementing nonpoint source pollution control practices.

The basic reporting requirements specified by CWA §319(h) are grantee performance reports, non-point source progress reports, and financial status reports. EPA also requires reporting through the §319 Grants Reporting and Tracking System (GRTS).

- Grantee performance reports: Grantee performance reports must be submitted annually unless the reporting agency requires quarterly or semiannual reports (2 CFR 200.328, US EPA NPS, 2013). The EPA NPS program grant guidelines also specify that the performance reports be two to three pages in length and include a performance/milestone summary, slippage reports (providing reasons for delays in meeting scheduled milestones and actions taken to correct any current or anticipated problems), and any additional pertinent information. In addition, final reports are due 90 days after the expiration or termination of grant support (USEPA NPS, 2013).
- Financial status reports: Grant recipients are required to submit Standard Form 425 Federal Financial Report ([Appendix B](#)) to report on the financial status of funds under each grant. States are usually required to submit these forms once per year. Final financial status reports are due

within 90 days of termination or expiration of a grant agreement (40 CFR Subchapter B 35.6670; USEPA NPS, 2013).

- Nonpoint source progress reports (annual reports): The CWA requires states to submit annual nonpoint source progress reports, which address milestone progress, resulting decreases in pollutant loadings, and other water quality improvements contained in not only the grant work plan but also the state's Nonpoint Source Management Program (CWA §319(h)(11)). EPA suggests the following components: (1) brief summary of progress meeting milestones and objectives; (2) milestone matrix with the applicable project, completion date, and percent completed; (3) discussion of federal agency activities to support the state in reaching its milestones; and (4) summary of loading reductions, water quality improvement, and measures of environmental progress (USEPA NPS, 2013). EPA may periodically provide updated guidance for the annual report.
- Grants Reporting and Tracking System: GRTS is a web-enabled data system that allows states and EPA to manage and report data on §319 grants. GRTS allows for efficient data entry and includes password protection. States are encouraged to attach final project reports completed under their grants to the Project Evaluation field in GRTS. If states so choose, they may let subrecipients enter their project data into the system, easing the burden on state staff. See Appendix E for GRTS Mandated Elements. The Agency may update this information as appropriate. Check EPA's website for the most current information:  
<https://www.epa.gov/nps/grants-reporting-and-tracking-system-grts>

### 3.112 Responsibilities to Subrecipients

States are expected to work closely with subrecipients throughout the project's life; review all reporting and financial paperwork submitted by subrecipients, conduct site visits, and act as a liaison to other state programs if needed. States are also expected to inform subrecipients of the federal requirements that must be met. States are required to include information from subrecipients' progress reports in the states' performance reports and annual reports. Finally, states are expected to properly closeout projects with grant subrecipients and enter nonpoint source information into GRTS. Also refer to EPA's Subaward policy at: <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>

## 3.2 Frequently Asked Questions: Post-Award

**Q. Is the state allowed to spend 319 funds on any of the following items: food; award programs; giveaways (such as t-shirts, pencils, and Frisbees); graduate school tuition; land purchase; vehicle purchase; teacher training??**

A. States and regions should refer to 2 CFR 200 Subpart E. It provides basic guidelines on factors affecting allowability and the list of selected items of cost. These guidelines will help determine allowable costs. There is a list of items of costs requiring prior EPA approval at [2 CFR 200.407](#). Regions and states should discuss questions on specific items as soon as possible. Some items are clearly



prohibited (e.g., promotional items, alcoholic beverages, and entertainment). The allowability of other items (food, capital expenditures) can be situationally dependent and should be discussed with EPA and explained consistent with 2 CFR 200 Subpart E.<sup>16</sup>

Please check EPA's general Grant Terms and Conditions at <https://www.epa.gov/grants/grant-terms-and-conditions#general> for the most current general terms and conditions.

**Q. Can time spent in training count toward the match?**

A. According to, 2 CFR part 200.306(4) the cost of training provided for employee development is allowable as match (see also 2 CFR part 200.472).

**Q. Can the project match be less than 40 percent?**

A. CWA §319(h) requires that the state match be at least 40 percent of the total program costs of the EPA grant. However, the state may decide what match percentage is required for specific projects funded under that grant. The project match for subrecipients can vary from zero to 100 percent, depending on the state.

**Q. Which federal agency funds, if any, can be counted toward the nonfederal match?**

A. None. According to, 2 CFR part 200.306(b) all matching funds should be verifiable as non-federal and also not included as contributions towards any other federal award.

**Q. What documents must be maintained in grant files and project files?**

A. States are required to maintain all financial and programmatic records, supporting documents, statistical records, and other pertinent information. For example, typical documents for grant files might include financial status reports, contracts, memoranda of agreement, and agreements with subrecipients. Project files should include nonpoint source progress reports.

**Q. If I need to make a change to the budget or work plan, what should I do?**

A. The state must seek EPA's approval for changes to work plan commitments or the budget. The state should discuss such changes in the work plan or budget with the EPA Project Officer as soon as possible. Other changes do not require EPA's approval unless the grant agreement imposes such requirements on a specific requirement for a specific period of time. More detailed information is provided at 40 CFR 35.114 and 2 CFR 200.308.

**Q. What documentation is needed for indirect cost rules?**

A. Copies of the current state-negotiated rates should be included with the grant application. A state agency's budget office should have rate information available. (2 CFR 200.414(c))

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<sup>16</sup> You may also want to reference RAIN 2018-G01-R, [Guidance on Selected Items of Cost for Recipients](#).

**Q. Can the indirect cost rate for a subrecipient be higher than 10%?**

A. Possibly. 319(h)(12) limits grant administrative costs (including indirect costs) to 10%. 2 CFR 200.414 limits indirect cost to 10% or the negotiated indirect cost rate for subawards. A reviewer would look at negotiated subaward rate and at the same time limit the overall grant indirect cost to no more than 10%.

**Q. Can 319 be used to fund easements?**

A. There is no current legal prohibition against using 319 funds for purchasing conservation easements so long as it is consistent with the implementation of a state's nonpoint source management program plan.

**Q. Can an easement be used as a match contribution?**

A. Like other in-kind contributions, easements - which are generally considered to be a type of interest in real property - can be used as match. See 2 CFR Part 200.306 for the cite for specifics on cost-sharing. The value of the easement would need to be calculated and confirmed.

**Q. When the state (or subrecipient) produces a report with §319(h) funds, does it become federal government property?**

A. 2 CFR 200.315 states that EPA has the authority to reproduce, publish, or otherwise use, and to authorize others to use for federal government purposes, the materials produced with §319(h) funds.

**Q. Are subsidies/participant support cost provided to 319 program participants considered taxable income? E.g. A farmer receives a subsidy to install fencing to keep livestock out of a stream.**

A. EPA's position is that funds provided under a 319 grant must be used primarily for the benefit of the public by addressing a public water quality concern. 319 grant funds are not provided primarily for the benefit of an individual. Participants should consult with his or her tax advisor if the participant is concerned that the receipt of a subsidy may have tax implications in their jurisdiction.

## Chapter 4: Federal Requirements for Project Closeout Phase

Several steps must be completed for the state to close out a nonpoint source project or program grant (2 CFR part 200.343). After subrecipients close out their projects with the state, the state will close out its grant to EPA.

First, the state should make sure that all tasks and projects identified in the grant work plan have been completed. If all such tasks and projects have been completed, the state should submit a final performance report to EPA within 90 days of the grant's project/budget period end date. In addition, within 90 days of the grant project/budget period end date expiration, the state should request final payment from EPA and must submit a final financial status report.

Prior to grant closeout, EPA conducts a grant evaluation. During this phase, the grant recipient is responsible for responding to any inquiries from the EPA project officer or EPA grants management specialist. Many grants include additional grant conditions, and the state should ensure that all such conditions have been met. All remaining grant funds or outstanding grant funds must be reconciled. Property purchased under the grant should be returned to EPA or disposed of per the Terms and Conditions of the agreement. Any disposition of property can be negotiated with EPA. Any final grant amendments should be prepared and submitted to EPA for approval if necessary. Once the grant commitments have been met, the EPA project officer issues closeout certification. States must retain all records for 3 years after submission of the final financial status report (2 CFR 200.333)<sup>17</sup>.

### Project Closeout Checklist for State

- Verify that work plan tasks have been completed.
- Reconcile any remaining or outstanding grant funds.
- Negotiate with EPA regarding disposition of property purchased with grant funds.
- Submit final progress report.
- Submit final project report.
- Request final payment from EPA.
- Submit final financial status report.
- Respond to inquiries during EPA Grant Evaluation.
- Retain all grant records for 3 years after submission of final financial status report.
- Enter any water quality data collected as part of the grant into WQX

### 4.1 Closeout Documentation

States should submit a final performance report for the full grant (including match), final financial status report, and any other reports required as a condition of the grant. Contact the EPA project officer for clarification of report contents.

Final project reports, required as part of the terms and conditions of the grant, should also be submitted within 90 days of the Grant's project/budget period end date. 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

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<sup>17</sup> If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

data, and should include any available water quality and habitat data demonstrating project results (USEPA NPS, 2013).

A useful resource to help with project reports is the [§319 Final Project Reports Workshop](#). This document includes examples of especially effective elements from 319 reports, and ways to expand the final report to be used for outreach and education, building partnerships, and many other uses.

## 4.2 Frequently Asked Questions: Project Closeout

### **Q. Once the grant expires, what should be done with equipment and other items purchased with §319(h) grant funds?**

A. 2 CFR Part 200.313(e) and 200.311(c) discuss the requirements for disposition of equipment and real property. Equipment and other items must be returned to EPA or disposed of per agreement with the awarding agency (EPA or the state). Factors affecting disposition include cost and whether the item is federal property. It is also important to keep in mind for both equipment and practices that the EPA NPS program grant guidelines (USEPA NPS, 2013) require that states include provisions in subcontracts and subgrants that any management practices implemented will be properly maintained for an appropriate number of years.

## References

### **[USEPA NPS 2013. Nonpoint Source Program and Grants Guidelines for States and Territories](#)**

Issued on April 12, 2013. These guidelines apply to all §319-funded grant activities beginning in fiscal year 2014. <https://www.epa.gov/nps/319-grant-current-guidance>

### **[§319 Grants Streamlining Policy and Program Expectations for Expenditure of Funds](#)**

This May 9, 2013 memorandum issues guidance on grants streamlining specific to the national Clean Water Act §319 Nonpoint Source program and provides national program expectations regarding the rate of expenditure of funds by the states. <https://www.epa.gov/nps/319-grant-current-guidance>

### **[§319 Final Project Reports Workshop](#)**

This document describes the purpose of §319 final reports, the information that should be included in the report, examples of especially effective elements from 319 reports, and ways to expand the final report to be used for outreach and education, building partnerships, and many other uses. [https://www.epa.gov/sites/production/files/2015-09/documents/2003\\_07\\_01\\_sec-319.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/2003_07_01_sec-319.pdf)

### **[EPA Policies for Grant Recipients](#)**

This web area contains a collection of policies and grant recipient guidance. It is searchable by Key word for different topics, Indirect Cost, Participant Support Costs, Budget Development, Etc. <https://www.epa.gov/grants/epa-policies-epa-grant-recipients>

### **[EPA Grantee forms](#)**

This web area includes forms used by grant applicants and recipients. <https://www.epa.gov/grants/epa-grantee-forms>

### **[EPA Grants Overview for Applicants and Recipients](#)**

This web page includes a collection of basic grant information and guides. <https://www.epa.gov/grants/epa-grants-overview-applicants-and-recipients>

### **[Electronic Code of Federal Regulations](#)**

2 CFR part 200, 40 CFR parts 7,29,34,35 and 1500  
<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

### **[EPA Grants Management Training for Applicants and Recipients](#)**

This web page includes an online training course designed to introduce EPA grant applicants and recipients to key aspects of the entire grant life cycle, from preparation of an application through grant closeout.

<https://www.epa.gov/grants/epa-grants-management-training-applicants-and-recipients>

# Appendix A: Summary of Federal Statutes, Regulations, and Guidelines and Policies Applicable to State Grants

## Clean Water Act §319

The Federal Water Pollution Control Act, as amended in 1972 and 1987, is collectively known as the Clean Water Act (CWA). The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters and, where attainable, to achieve a level of water quality that provides for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water. In 1987, Congress amended the act and added §319 for the purpose of addressing nonpoint source pollution. CWA §319 established baseline requirements for state and territorial nonpoint source management programs and authorized national funding to support implementation of approved management programs. CWA §319(h) is the principal authority for EPA funding dedicated to nonpoint source pollution control.

<https://www.gpo.gov/fdsys/pkg/USCODE-2010-title33/pdf/USCODE-2010-title33-chap26-subchapIII-sec1329.pdf>

## Title 2 (Grants and Agreements) of the Code of Federal Regulations

**Part 200:** The Uniform Administrative Requirements, Cost Principles and Audit Requirements of Federal Awards streamlines and consolidates government requirements for receiving and using federal awards so as to reduce administrative burden and improve outcomes. It was published in the Federal Register (79 Fed. Reg. 75871) on December 19, 2014, and became effective for new and continuation awards issued on or after December 26, 2014. Please note the new regulations do not affect grant funds awarded prior to December 26, 2014, unless funds made available under those grants are carried forward into a new Federal fiscal year or a continuation grant.

**Part 1500:** The Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR part 200), as supplemented by this part.

**Part 1532:** This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Environmental Protection Agency (EPA) policies and procedures for nonprocurement debarment and suspension.

<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

## Title 40 (Protection of the Environment) of the Code of Federal Regulations

For full text of any of the provisions described below see:

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl)

Title 40 of the CFR, including parts 1 through 790, is published in October or November of each year. Only parts 1 through 51 apply to grants. The CFR codifies changes to EPA grant regulations that have been published in the Federal Register in the previous year (July 1 to June 30). 40 CFR parts 7, 29, 34, and 35 pertain to §319(h) grant recipients and subrecipients.

**Part 7:** (Nondiscrimination in Program Receiving Federal Assistance from the Environmental Protection Agency). 40 CFR part 7 prohibits discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, gender, or handicap. Part 7 outlines the following requirements:

- Submission of an assurance with a grant application that the grant applicant will comply with the requirements of part 7.
- Maintenance of compliance information during the life of the grant and for 3 years after completing the project.
- Public notification that the grantee does not discriminate on the basis of race, color, national origin, gender, or handicap.

Part 7 also describes EPA's compliance procedures.

**Part 29:** (Intergovernmental Review of Environmental Protection Agency Programs and Activities). 40 CFR part 29 requires EPA to provide an opportunity for consultation between federal representatives and state and local elected officials. This intergovernmental review is intended to determine the views of state and local elected officials, provide notice of proposed federal financial assistance from EPA to the state government, and communicate specific state plans and actions as early in a program planning cycle as is reasonably feasible.

**Part 32.600:** This requires recipients of §319(h) grant funds to certify that they maintain a drug-free workplace. By signing and submitting the §319(h) grant application, the applicant certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any grant-related activity.

**Part 34:** (New Restrictions on Lobbying). 40 CFR part 34 prohibits the use of federal grant funds to influence (or attempt to influence) a federal employee. It also requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if nonfederal funds have been used to influence (or attempt to influence) a federal employee. Additional restrictions and information regarding Lobbying can be found at 2 CFR Part 200.450.

**Part 35A:** (Environmental Program Grants). 40 CFR part 35, subpart A, applies to all environmental program grants including §319(h). It establishes administrative grant requirements that supplement the requirements described under 2 CFR 200 and 1500. Table A-2 outlines the requirements of part 35, subpart A.

## **EPA NPS program Grant Guidelines**

EPA developed specific guidelines in April 2013 for the award of §319(h) grants beginning in fiscal year 2014. The guidelines describe criteria and processes for states and territories to upgrade their Nonpoint Source Management Programs, summarize statutory and regulatory provisions that apply

to the award of nonpoint source grants, and provide guidance designed to assist states and territories in implementing effective programs and projects. These guidelines have been updated over the years to reflect changes in the grant process and criteria.

- **Current Guidance:** <https://www.epa.gov/nps/319-grant-current-guidance>
- Historic Guidance <https://www.epa.gov/nps/319-grant-historic-guidance>
- For Current State NPS program information: <https://www.epa.gov/nps/contacts-nonpoint-source-nps-pollution-programs>

## **EPA Grant and Policy Resources**

This useful webpage includes a searchable table of the latest resources that may be pertinent to specific questions relate to your grant. Use the Key word search to scan for items of specific interest.

<https://www.epa.gov/grants/epa-grants-policy-resources>

Other Grant Policy references that will be useful to consider:

EPA Grants Policy Issuance 16-01 (Sub-awards Policy): <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>

EPA Office of Grants and Debarment Guidance on Selected Items of Cost for Recipients:  
<https://www.epa.gov/grants/rain-2018-g01-r>

Cost review template and guidance for project officers' grants Under 40 CFR Part 35 Subpart A:  
<https://www.epa.gov/grants/cost-review-template-and-guidance-project-officers-grants-under-40-cfr-part-35-subpart>

Interim Guidance on Cost Review of Grants/Performance Partnership Grants Awarded under 40 CFR Part 35 Subpart A: <https://www.epa.gov/grants/interim-guidance-cost-review-grantsperformance-partnership-grants-awarded-under-40-cfr-part>

Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements: <https://www.epa.gov/grants/best-practice-guide-procuring-services-supplies-and-equipment-under-epa-assistance-agreements>



## Appendix B: Application process and forms

For the most current list of EPA Grantee Forms: <https://www.epa.gov/grants/epa-grantee-forms#recipients>

### Federal Forms

#### Initial Application through Grants.Gov

##### Required forms

[Standard Form 424](#) (“Application for Federal Assistance”)

[Standard Form 424A](#) (“Budget Information for Non-Construction Programs”)

[Standard Form 424B](#) (“Assurances for Non-Construction Programs”) (through Feb 2020)

[EPA Form 4700-4](#) (“Pre-award Compliance Review Report”)

Project Narrative Attachment Form<sup>18</sup>

Budget Narrative Attachment Form

\*Note: all pre-award application forms required by EPA are available in Grants.gov.

##### Post-Award

[EPA Form 5700-52A](#) (“MBE/WBE Utilization Report”)

Standard Form 425 (Federal Financial Report)

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<sup>18</sup> The Project Narrative and Budget Narrative forms may appear as optional attachments in Grants .gov, however for Continuing Environmental Programs like the §319 program they are a pivotal component of evaluating the grant application package and should be included in the application package submitted through Grants.gov.

## Grants.gov Instructions Guide - Noncompetitive Applications for States and Tribes

After workplan negotiations and other pre-application discussions are completed, Program Offices/Regional GMOs must communicate to the state, territory, or tribe the specific instructions for submitting their application on Grants.gov.


- 1) **The link to the site on Grants.gov** where the applicant will search for the application package: <https://www.grants.gov/web/grants/applicants/search-opportunity-package.html>

**The Funding Opportunity Numbers (FONs)** which will be used to access the application packages are [EPA-CEP-01](#). Applicants will type this into the “Funding Opportunity Number” field to locate the packages. **Note – 319 grant applicants use EPA-CEP-01**

### Search for Opportunity Package

To search for an opportunity package, enter the **Funding Opportunity Number** or **Opportunity Package ID** and click the **Search** button. If you do not remember the Funding Opportunity Number for the grant opportunity, return to the [Search Grants](#) section to locate the grant opportunity.

Please enter criteria and click Search:

**Funding Opportunity Number:**

**Opportunity Package ID:**

- 2) **Description of the process.** Once the applicant has entered the FON and accessed the list of CFDA's, the applicant will **find the appropriate CFDA (66.460), click “Apply”**, log in, and use Workspace to complete the package and submit.

OPPORTUNITY PACKAGE(S) CURRENTLY AVAILABLE FOR THIS FUNDING OPPORTUNITY:						
CFDA	Competition ID	Competition Title	Opportunity Package ID	Opening Date	Closing Date	Actions
66.001			PKG00213703		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.032			PKG00214049		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.034			PKG00214050		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.038			PKG00214051		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.040			PKG00214052		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.042			PKG00214046		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.121			PKG00214048		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.124			PKG00214043		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.125			PKG00214045		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.202			PKG00214047		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.418			PKG00214053		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.419			PKG00214103		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.432			PKG00214104		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.433			PKG00214105		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.437			PKG00214106		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.454			PKG00214107		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.456			PKG00214108		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.458			PKG00214109		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>
66.460			PKG00214110		10/04/2020	<a href="#">Preview</a>   <a href="#">Apply</a>

- 3) **Resources:** A link to Grants.gov resources such as how to apply, register, and seek help.  
<https://www.grants.gov/web/grants/applicants.html>

### What happens next?

When the application is submitted using Grants.gov, IGMS or EPA's Grant Management System (new system to replace IGMS) will use the state of the applicant to identify the region receiving the app package. An accompanying 'lookup table' will associate the region with a POC in that region to receive the email notice and the link to the application in the pre-award module.

**Register with Grants.gov:** EPA requires that all initial applications be submitted through Grants.gov.

In order to submit your application using Grants.gov, your organization must be registered with Grants.gov. Please allow four weeks to complete registration. Also, please note that you must have a DUNS number and an active SAM.gov registration before registering with Grants.gov. Please note that only Authorized Organization Representatives (AORs) can submit an application on behalf of your organization. You can find out more information about registering here:

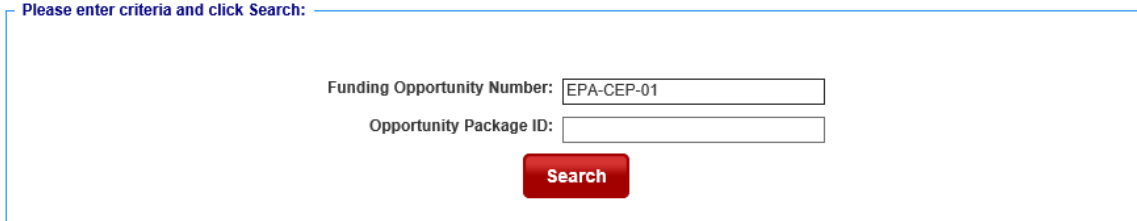
<https://www.grants.gov/web/grants/applicants/organization-registration.html>

### Access Grant Application Package

Go to <https://www.grants.gov/web/grants/applicants/search-opportunity-package.html>

1. Type <<"EPA-CEP-01" >> into the "Funding Opportunity Number" field and click "Search".

Please enter criteria and click Search:



The screenshot shows a search form with two input fields and a search button. The first field is labeled 'Funding Opportunity Number:' and contains the text 'EPA-CEP-01'. The second field is labeled 'Opportunity Package ID:' and is empty. Below the fields is a red button with the word 'Search' in white text.

2. Click "Apply" next to CFDA 66,460.
3. Login to create a Workspace for the opportunity. Fill out and attach the forms and information that your particular program requires. Contact <<<EPA POC>>> if you have questions about which forms and materials you must submit for your program. Please note that the DUNS number on your application must belong to the entity listed on the application as applying for the grant.
4. Submit your application. Please Note: an AOR is the only one who can submit an application and they must be authorized by the entity applying for the grant.
5. Confirm with <<<EPA POC>>> that EPA has received your application package.

If for ANY reason you cannot submit your application by the deadline specified, contact <<<EPA POC>>> immediately.

## **Applicant Grants.gov Support**

Visit the Grants.gov Applicant page here <https://www.grants.gov/web/grants/applicants.html> for FAQs, User Guides, Checklists, Training and Technical Support.

Call or email the Grants.gov Contact Center (<https://www.grants.gov/web/grants/support.html>) – Open 24 hours a day, 7 days a week – with any technical questions or issues.

- 1-800-518-4726
- [support@grants.gov](mailto:support@grants.gov)