



National Association of Wetland Managers

“Dedicated to the Protection and Restoration of the Nation’s Wetlands”

December 20, 2023

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Subject: Draft Revision for Public Comment of NPS Grants
Guidelines for States and Territories

Dear Mr. Wall,

The National Association of Wetland Managers (NAWM) submits the following comments in response to the U.S. Environmental Protection Agency’s (EPA) revised draft of the nonpoint source (NPS) §319 grant guidelines.

NAWM is a non-partisan 501(c)(3) professional organization that supports the use of sound science, law, and policy in development and implementation of state and tribal wetland and aquatic resource protection programs. Since 1983, our organization and our member states and Tribes have had longstanding positive and effective working relationships with federal agencies. As an association representing states and Tribes as co-regulators tasked with implementation of the Clean Water Act (CWA) regulations, NAWM understands the complexity of the CWA and the implementation challenges the Act poses. We have worked for many years together with federal, state, and Tribal agencies in the implementation of non-regulatory and regulatory programs designed to protect waters of the United States (WOTUS). Our collaborations involve programs such as the CWA section 319 program for nonpoint source pollution management, section 404 permit program for dredged or fill material, state and tribal water quality standards for wetlands, and the jurisdictional status of wetlands and other waters as WOTUS.

The CWA section 319 nonpoint source (NPS) management program provides critical funding for states and Tribes to adequately address NPS pollutants and thereby achieve the goals of the CWA. Federal grants assist states and Tribes in planning and implementing measures to address their own NPS pollution while tracking measurable results. NAWM supports updates to the grant guidelines that clarify aspects of the program and give greater flexibility in addressing pollution. Each watershed has unique circumstances, pollutants, communities, and

needs, and allowing states and Tribes more options for their NPS programs appropriately accommodates that diversity of circumstances. Encouraging integrated planning with other federal agencies such as the Federal Emergency Management Agency (FEMA), and the US Department of Agriculture (USDA) will allow states and communities to implement projects with co-benefits across multiple program sectors and access more diverse funding sources.

NAWM also strongly supports the inclusion of environmental justice and climate concerns in the new guidelines. The previous document from 2014 made no mention of “environmental justice” or “equity” and only two mentions of “climate change” despite both issues having been relevant and pressing at the time. Environmental harms, including water resource degradation from NPS pollution, have been consistently shown to fall on the shoulders of minority communities and economically disadvantaged communities^{1, 2}. Climate change is projected to exacerbate the discrepancies that lead to inequitable distributions of harms³. By adding specific language and guidance to consider environmental justice and climate change when implementing the section 319 grant program, the EPA positions itself as a leading partner with states to focus on equitable and resilient outcomes.

NAWM hopes that similar updates will be made to the section 319 grant guidance for Tribes. Tribes will benefit from the increased flexibility as well as the included resources for assembling partnerships for more effective planning, financing, and implementation.

With these themes in mind, NAWM provides the following detailed comments for consideration on the major changes as highlighted in the revised guidance document:

Inclusion of five national NPS priorities for states to consider when updating their five-year NPS management program plans (Chapter 2).

1) Reduce Nutrient Pollution

The first of the new national priorities that EPA is encouraging states to include in their NPS management plans is a reduction in agricultural nutrients (nitrogen and phosphorus) polluting waterways. Nutrient pollution of freshwater sources has been consistently shown to be one of the major causes of modern water resource degradation in the US⁴ and is overwhelmingly the result of NPS pollution⁵. NAWM supports the reduction of nutrient pollution as a national priority of

¹ Mohai, P., Pellow, D. & Roberts, J.. (2009). Environmental Justice. Annual Review of Environment and Resources. 34. 10.1146/annurev-environ-082508-094348.

² Hendricks, M. D., & Van Zandt, S. (2021). Unequal protection revisited: Planning for environmental justice, hazard vulnerability, and critical infrastructure in communities of color. Environmental Justice, 14(2), 87–97. <https://doi.org/10.1089/env.2020.0054>

³ Wilson, S. M., Richard, R., Joseph, L., & Williams, E. (2010). Climate change, environmental justice, and vulnerability: An exploratory spatial analysis. Environmental Justice, 3(1), 13–19. <https://doi.org/10.1089/env.2009.0035>

⁴ Kuwayama, Y., Olmstead, S. M., Wietelman, D. C., & Zheng, J. (2020). Trends in nutrient-related pollution as a source of potential water quality damages: A case study of Texas, USA. Science of The Total Environment, 724, 137962. <https://doi.org/10.1016/j.scitotenv.2020.137962>

⁵ Manuel, J. (2014). Nutrient pollution: A persistent threat to waterways. Environmental Health Perspectives, 122(11). <https://doi.org/10.1289/ehp.122-A304>

the NPS program, specifically the language emphasizing the need for partnerships with the USDA, states, Tribes, and industry stakeholders to address the problem. The USDA, through the National Resources Conservation Service (NRCS), supports farmers to adopt best management practices (BMPs) that have been shown to reduce agricultural nutrient runoff by up to 30%⁶. Bringing in the NRCS as a partner in NPS management will coordinate shared nutrient reduction goals between programs and expand overall reach by leveraging their expertise and connections to agricultural producers.

2) Ensure Equitable Access to NPSMP Benefits

The EPA has elevated environmental justice considerations to be a national priority for inclusion in NPS programs and plans. NAWM supports EPA's recognition that "water quality and climate change impacts can disproportionately affect urban and rural communities that are predominately of color, Indigenous, linguistically isolated, low-income, and/or impacted by other stressors". The guidance will be an important step towards ensuring equitable access to program benefits and funding for under-resourced communities.

3) Protect Healthy Waters and Watersheds

In the third national priority added to the new guidelines, the EPA has emphasized support for state NPS management plans that include activities to protect healthy waters. NAWM recognizes that the goal of the CWA as stated in section 101 is to "restore and maintain" the nation's waters⁷. Bolstering the Section 319 grant program to include activities that not only restore but also protect healthy waters helps to achieve that goal. Emphasizing protection in addition to remediation also allows states and tribes more flexibility to target the watersheds and projects they themselves have identified as priorities.

4) Advance Climate Resilience through NPS Solutions

The new national priority to advance climate change resilience recognizes that climate change will have wide-ranging effects on our future environment generally and on the NPS program specifically. NAWM agrees with EPA that actions implemented through state NPS programs can contribute to future climate resiliency. NAWM supports the language of this national priority highlighting the need for projects that prioritize nature-based solutions that deliver co-benefits to climate resilience. We have been working with states and tribes through an EPA cooperative agreement to facilitate integration and partnering between clean water professionals and hazard mitigation professionals with the goal of spurring integrated project planning and implementation. States and Tribes have been very interested in implementing projects with co-benefits thus including more guidance on potential best management practices for NPS programs will be well received. Nature-based solutions have been shown to be effective not only for hazard mitigation, but also for delivering many social benefits associated with increased access

⁶ U.S. Department of Agriculture, Natural Resources Conservation Service. 2017. Effects of Conservation Practices on Nitrogen Loss from Farm Fields: A National Assessment Based on the 2003-06 CEAP Survey and APEX Modeling Databases. 129 pp.

⁷ CWA Section §101(a), 33 U.S.C. §1341(a)(1).

to green space and improving numerous ecological services⁸. Wetlands specifically have been singled out by the Millennium Ecosystem Assessment as ecosystems that provide these co-benefits and should be recognized as an important asset in NPS planning⁹.

5.) Leverage Innovative Financing for NPS Solutions

In the final national priority added to the new guidelines, the EPA encourages states to use section 319 grant funds to help leverage funding from other sources and programs. Resources have been added to the guidelines that list other federal programs whose goals may intersect with an NPS program. The states and tribes that NAWM works with have consistently highlighted program funding and project financing as training topics of high interest. Specifically, there is a stated need for information on how to combine multiple funding sources for a single project. The EPA's guidance on other federal programs that may be leveraged with section 319 grant funds will be a valuable resource.

New expectations and flexibilities, as articulated in the September 2022 Equity Memo, for states to ensure more equitable access to NPS water quality benefits for disadvantaged communities.

The EPA has added two major changes to the guidelines to improve environmental justice outcomes for the section 319 grant program. The first is to add flexibility for disadvantaged communities in regard to the requirement that 50% of grant funding go towards watershed-based projects, allowing for these funds to be used on planning and capacity building activities (chapter 6.3). The second is to ask states to report on equity and environmental Justice activities in their NPS management program annual reports.

NAWM supports the updates to the guidelines to include environmental justice considerations that were not addressed in the 2014 guidelines. The added flexibility to use watershed project funds to support planning and capacity building activities in disadvantaged communities will help to jumpstart watershed programs and projects in areas that have previously not received the necessary support. Capacity building has been shown to be among the most effective outcomes of environmental justice focused projects¹⁰ with success tied to the empowerment of local decision makers and strong, lasting partnerships between communities and funding agencies¹¹. Expectations to include environmental justice goals, activities, and metrics for NPS management plans and annual NPS reports will ensure the necessary accountability that section 319 grant funding will be used equitably.

⁸ Chausson, A., Turner, B., Seddon, D., Chabaneix, N., Girardin, C. A. J., Kapos, V., Key, I., Roe, D., Smith, A., Woroniecki, S., & Seddon, N. (2020). Mapping the effectiveness of nature-based solutions for climate change adaptation. *Global Change Biology*, 26(11), 6134–6155. <https://doi.org/10.1111/gcb.15310>

⁹ Millennium Ecosystem Assessment, 2005. *Ecosystems and Human Well-Being: Wetlands and Water Synthesis*. World Resources Institute, Washington, DC.

¹⁰ Kimmell, K., Kinol, A., Si, Y., & Sotolongo, M. (2021). A User's Guide to Environmental Justice: Theory, Policy, & Practice. 10.13140/RG.2.2.33415.73127.

¹¹ Davis, L. F., & Ramirez-Andreotta, M. D. (2021). Participatory research for environmental justice: A critical interpretive synthesis. *Environmental Health Perspectives*, 129(2), 026001. <https://doi.org/10.1289/EHP6274>

Clarification that the complexity of watershed-based plans (WBPs) should be commensurate with the NPS problems that the plan addresses.

The new guidelines clarify in chapter 4.4 that the level of detail required for a WBP will vary based on land use and existing pollutants. Scale is highlighted as a consideration with the example that urban watersheds will tend to be more complex and may require their WBPs to cover a smaller geographic area. The EPA's recognition that the diversity of watersheds will require different levels of planning and implementation is an important added flexibility for states. This is also tied to environmental justice, where rural and urban watersheds with lower socio-economic indicators are associated with lower water quality indicators.¹² Rural and urban disadvantaged communities will each require different solutions in their watershed-based plans and NAWM supports the added clarification and flexibility in the guidelines.

New guidance on existing plans that can be leveraged as part of a nine-element watershed plan and the requirements for alternative watershed plans.

In chapter 4.5, the EPA encourages states to use existing plans from other programs to incorporate into a WBP. As outlined in the *Handbook for Developing Watershed Plans to Restore and Protect Our Waters*, each WBP must include nine elements that relate to identifying pollution sources, estimating effectiveness of management measures, planning and monitoring for progress, and engaging the public. The EPA lists several other types of plans from other state or federal agencies, such as NRCS watershed assessments or FEMA hazard mitigation plans, that may have applicable information that can be cross referenced when designing a WBP. The guidelines also recommend states develop and implement total max daily load calculations for impaired waters in the watershed to inform their WBPs. NAWM has been working with states and Tribes to promote an integrated planning process to bring different program sectors to the table to implement projects with co-benefits. Allowing existing plans to be leveraged for use in watershed-based plans not only saves time by not requiring the same work to be done twice, but is also a start in opening dialogues for partnership building as state NPS programs reach out to coordinate their plans with other agencies. This new guidance can be strengthened by tying it together with the guidance on innovative project financing to push an overall goal of integration and partnering.

Renewed emphasis on activities to protect healthy waters and removed the limit on the amount of §319 funds that can be used for protection activities.

The EPA has added watershed protection as a national priority in Chapter 2.5 and removed funding restrictions on protection activities in chapter 7.6. If a state identifies healthy watersheds as a priority in their NPS management plans, it may use watershed project funding for protection.

¹² Sanchez, G. M., Nejadhashemi, A. P., Zhang, Z., Woznicki, S. A., Habron, G., Marquart-Pyatt, S., & Shortridge, A. (2014). Development of a socio-ecological environmental justice model for watershed-based management. *Journal of Hydrology*, 518, 162–177. <https://doi.org/10.1016/j.jhydrol.2013.08.014>

As stated previously, NAWM supports updates to the guidelines that elevate protection activities to give states more flexibility in prioritizing NPS program activities. This also is in line with CWA section 101's stated goal to both "restore and maintain" the nation's waters¹³.

The states and tribes that NAWM works with have stated a need for more implementation funding to protect wetlands, which are a crucial component of a healthy watershed¹⁴. Renewed focus on necessary actions to maintain healthy watersheds will help to highlight the role of wetlands.

Increased focus on planning for changing climate conditions, including a new emphasis on the climate adaptation and resiliency co-benefits provided by common NPS best management practices.

In addition to elevating climate resilience to a national priority in Chapter 2.6, the EPA added guidance on how to incorporate resiliency into state priorities (3.2), watershed-based plans (4.3), and project implementation (7.10). The implementation section encourages integrated planning and project designs focused on co-benefits with other programmatic goals.

NAWM strongly supports the new emphasis on program co-benefits that can be achieved through an integrated planning process. Highlighting FEMA, US Army Corps of Engineers (USACE), and state hazard mitigation professionals as potential coordinating partners is useful guidance to get started.

The introductory information defining integrated planning in chapter 7.10.3 could be connected more closely to the other federal programs listed in chapter 11. This would tie together not only plan integration, but the opportunities for diverse funding resources that become available through partnership building. It would be useful for states to have all the information on integration and partnering concentrated in one chapter to highlight all possible connections.

NAWM also urges the EPA to ensure that wetland related projects are given full consideration under the national priority for climate resilience. Healthy wetlands provide co-benefits to watersheds that include carbon cycling, hazard mitigation, and improved drinking water quality. State NPS programs would benefit from collaboration and partnership with wetlands programs to achieve these benefits.

Reaffirmed the requirement that 50% of each state §319 grant be devoted to watershed project activities and provided new flexibilities for the kinds of NPS implementation activities that may be eligible for watershed project funding.

The updated guidelines on funding use in chapter 6 provide useful clarifying examples for states. As stated previously, more flexibility for states to direct their funding between NPS program

¹³ CWA Section §101(a), 33 U.S.C. §1341(a)(1).

¹⁴ Zollitsch, B., Stelk, M., Schiller, S., Seary, S., & Dooley, B. (2019). Healthy Wetlands, Healthy Watersheds: Leveraging state wetland restoration and protection programs to improve watershed health. Association of State Wetland Managers, Windham, Maine.

activities and watershed project activities will help to address specific circumstances that vary from watershed to watershed.

Provided a renewed emphasis for states and territories to establish and expand collaborations with Clean Water State Revolving Fund programs to advance NPS solutions.

The EPA included specific mentions of the CWSRF in chapters 2.7, 6.2.3, and 11.2 as a potential funding partner for NPS projects. NAWM has had speakers from the CWSRF program present during our annual meetings and workshops. States and Tribes have been very interested in learning about the possibilities of leveraging CWSRF funds for their NPS projects and increased emphasis and incentives in the guidelines will help spread awareness of the resource. The CWSRF is in turn interested in working with projects that implement nature-based solutions for resiliency co-benefits¹⁵. This can further be tied to the need for increased integration and partnering between various programs.

Offered additional options for reporting accomplishments, including metrics focused on protecting healthy waters, interim milestones, and other program accomplishments.

The EPA added several additional options for reporting accomplishments in chapter 8.7, allowing more stories to be told on the effectiveness of a state's NPS program. Interim milestones show progress through time and provide useful data as to the program's current effectiveness. The specific mention of accomplishments furthering environmental justice, accomplishing co-benefits beyond water quality goals, and protecting healthy waters will capture the stories that these updated guidelines are seeking to bring new emphasis to.

Expanded the description of how the §319 program may intersect with or leverage similar EPA or other federal programs, including more detailed ideas on how states can coordinate with and leverage U.S. Department of Agriculture and Federal Emergency Management Agency resources.

The list provided in chapter 11 of the updated guidelines of other federal programs is a useful resource for state NPS programs to look to for partnership and further funding opportunities. It supplements previous added language promoting integrated planning to achieve co-benefits across program sectors. In addition to the federal programs listed, chapter 11 should also reiterate in the introduction the need for a state NPS program to reach out to different state programs as part of the planning process. Different state programs will have different federal contacts that can be leveraged as part of a team effort. NAWM encourages the EPA to keep this section updated with the most current information from other federal programs.

NAWM Conclusion

NAWM appreciated the opportunity to comment on the draft revised guidelines for the CWA section 319 grant program and applauds the emphasis on major priority areas that align with NAWM's priorities. The additional guidance on environmental justice, climate change, and

¹⁵ [Increasing Climate Resilience and Mitigation via CWSRF and WIFIA \(epa.gov\)](https://www.epa.gov/cwsrf/wifia)

integrated planning will help build more equitable NPS programs that are able to achieve long-term resiliency. Wetland protection and restoration will be a key component in achieving these aims. NAWM encourages the EPA to update the Tribal section 319 grant guidance with the same priorities and resources.

Although these comments have been prepared by NAWM with input from the NAWM Board of Directors, they do not necessarily represent the individual views of all states and Tribes. We encourage your full consideration of the comments of individual states and tribes, and other state and Tribal associations.

Sincerely,

A handwritten signature in black ink, appearing to read "Marla J. Stelk". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marla J. Stelk, Executive Director

Cc: NAWM Board of Directors