

## **Strengthening the CWA Section 319 Program Workgroup Process Overview**

### Background

In November 2011, EPA transmitted a final copy of *A National Evaluation of the Clean Water Act Section 319 Program* to the Office of Management and Budget and NPS stakeholders (EPA Regions, State NPS programs, and other partners). The final report included Appendix C (Potential Recommendations from the EPA/State Water Division Director Workgroup Re. Section 319 NPS Program Improvements), which outlined major recommendations for program improvements, as well as a preliminary schedule to implement these recommendations.

Additionally, the Government Accountability Office (GAO) is scheduled to finalize its own review of EPA's Section 319 Program in the coming months. The findings and recommendations from this report will be incorporated in EPA's efforts to strengthen the Section 319 Program as appropriate.

Over the next several months, EPA will facilitate an EPA/State Workgroup process to discuss and implement recommendations to improve the Section 319 Program. This process will provide an opportunity for EPA and the States to collaborate to address the findings and recommendations from the recent EPA and GAO evaluations of the Section 319 Program.

This paper lays out the key issue areas for program improvement, the anticipated workgroup structure, and a draft process and timeline to develop the recommended Section 319 program refinements. This information is intended to provide a general overview of the workgroup process and is subject to change.

### Purpose/Goal

Discussions and feedback from the EPA/State Workgroups will help inform comprehensive revisions to the CWA Section 319 Grant Guidelines for use by the States in FY13, as well as other program enhancements. EPA anticipates convening several staff level issue groups, each of which will address one of the following key issue areas (A through E). At the end of this workgroup process, each issue group will develop draft recommendations and options on how to address each key issue area through revisions to the 319 Guidelines, and/or through other means.

#### **A. Satisfactory Progress Determinations and State NPS Program Plans Updates (Convene in January 2012)**

As set forth in Section 319(h)(8), the EPA Regional Administrator may not award section 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 NPS Management Program Plan. EPA will work with the States to develop a detailed, common understanding of the components that should be included in a Region's satisfactory progress determination, including the information that needs to be provided by States to enable the Regions to make sound determinations.

Additionally, in FY13 EPA will require States to update their NPS Management Program Plans to focus them in a manner that maximizes program effectiveness and results. Comprehensive updates will be required for any State with an outdated plan (of the 1998-2001 vintage) to align with all operative guidelines (including any new guidelines that emerge in 2012/2013). (*Note: NPS Management Program Plan updates may be discussed in a separate issue group.*)

**B. Use of 319 Funding and Program Reporting (Convene in January 2012)**

To accelerate the achievement of environmental results, the Agency will specify that for future 319 grant awards, at least 50% of 319 funds should be used to support on-the-ground restoration or protection projects to implement watershed-based plans (WBP). Furthermore, to improve program management, the Agency will work with States to identify priority watersheds for watershed-based plan development and implementation. For example, States can improve the processes/approaches for prioritizing watersheds for WBP funding by considering factors such as the importance and severity of impairment or protection need being addressed as well as likelihood for projects to succeed. These priorities would drive funding decisions. The Agency will also work with States to find opportunities to promote and implement region or statewide approaches to address NPS pollution.

Additionally, EPA will work with the States to track and report on the use of all matching funds in the same manner as for 319 funds, as they are intended by law to share the cost of the program and thus are integral to the program's implementation and accountability. EPA will consider requiring a detailed quantitative accounting, in grants applications and in annual reports of the outputs/outcomes/activities of staff funded with both 319 dollars and State match.

**C. Increase Use and Leveraging of Clean Water State Revolving Funds (CWSRFs) and/or Other Sources of State Funding (Convene in March/April 2012)**

EPA will develop guidelines to allow greater flexibility in use of 319 funds for states that use CWSRF or other State funds for implementation. For example, States that demonstrate that they have two to three times the amount of funds (CWSRF and/or State funds) being used to implement watershed-based plans would have greater flexibility to use the 319 funds to support other State nonpoint source priorities.

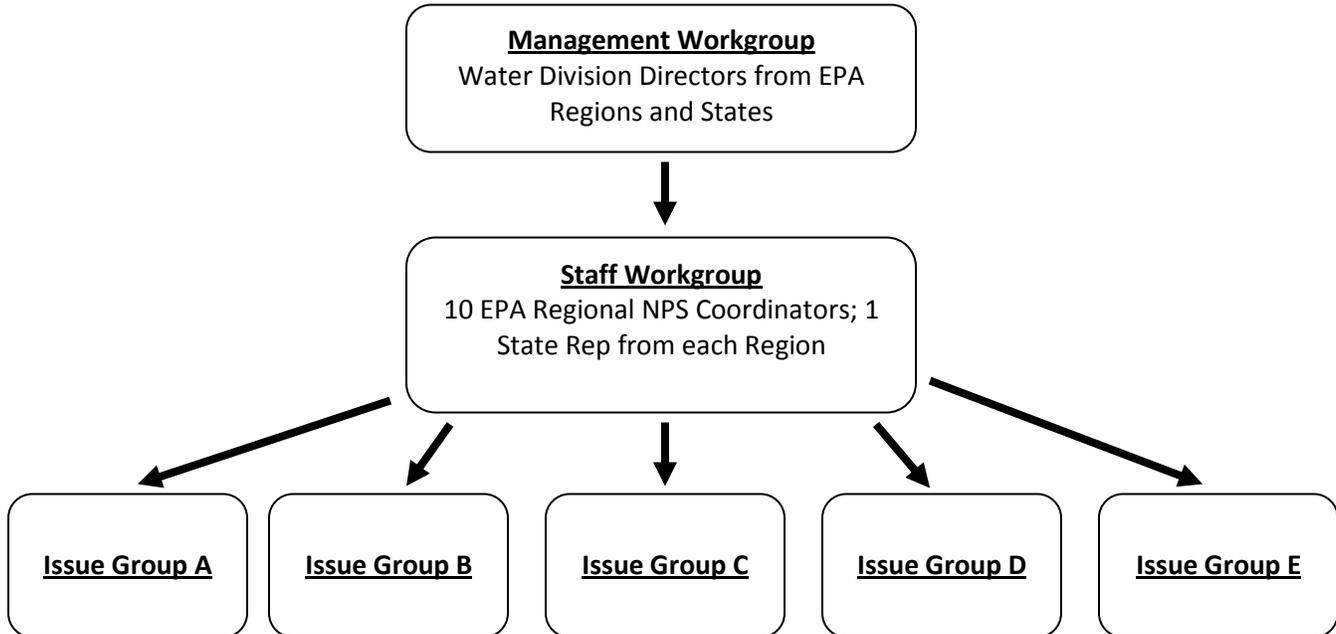
**D. Regional Competition/Reallocation of (1) funds that have not been expended by the end of the grant period and (2) a portion of new fiscal year funds (Convene in March/April 2012)**

EPA will develop guidelines to establish an approach for Regions to compete and reallocate two potential sources of funding: (1) funds that have not been expended by the end of the grant period due to project period expiration or non-performance and have become available for re-award when they are deobligated from grants; and (2) new fiscal year funds that are subtracted from States who are not liquidating obligated funds at a reasonable rate or from States who did not make satisfactory progress in the previous year.

**E. Measuring Success and Improving Program Accountability (EPA to start internal dialogue on this issues and engage States in June 2012)**

The success of the 319 program is evaluated, in part, by the number of primarily nonpoint source-impaired waterbodies that have been partially or fully restored (WQ-10). There is a growing emphasis on the need to be able to show "incremental progress" in addressing water quality issues in NPS impaired waters. EPA HQ and Regions will work to develop measures of incremental progress for review by States, with the aim of incorporating a measure of incremental progress in the program's accountability system.

## Workgroup Structure



Management Workgroup (Participating EPA Regional and State WDDs + EPA HQ management): This workgroup will be chaired by Benita Best-Wong, Deputy Director of EPA’s Office of Wetlands, Oceans, and Watersheds, and will include Water Division Directors from the Regions and 5-6 States. The Management Workgroup will convene about once every 4-6 weeks, during which the Staff Workgroup chair and EPA HQ Issue Group representatives will provide updates on discussions and progress-to-date in each of the key issue areas.

Staff Workgroup (10 EPA Regional NPS Coordinators + 1 State Rep from each Region + EPA HQ staff): This workgroup will be chaired by Lynda Hall, Chief of the Nonpoint Source Control Branch. Members will include the 10 EPA Regional Nonpoint Source Coordinators and a State representative from each EPA region. This workgroup will convene every 2-4 weeks to discuss general direction of the workgroup process, address key issue areas requiring input from a broader audience than is available at the issue group level, etc.

Staff Issue Groups (8-10 members + EPA HQ staff): These smaller issue groups will be comprised of representatives from the EPA Regions and States, with EPA Headquarters (NPS Control Branch) staff serving as chairs, with the option for Regional co-chairs. Each issue group will meet every other week, at a minimum, depending on the number of issues to be covered. As indicated above, EPA will use a staggered approach to convening these issue groups; groups (A) and (B) will be convened in January, while groups (C), (D), and (E) will convene later in the spring. At the conclusion of the workgroup process, each issue group will provide to EPA draft recommendations and options on how to strengthen the Section 319 Program (through revisions to the 319 Guidelines and other means) to address each key issue area.

## Roles/Responsibilities of Issue Group Co-chairs and Members

### **Issue Group Co-chairs:**

Each issue group will be led by a chair from EPA Headquarters NPS Control Branch with the option for Regional co-chairs. Co-chair responsibilities would include:

- provide leadership to ensure that progress is made and outcomes are achieved on schedule;
- manage the issue group process, set meeting/conference call agendas, and convene regular conference calls;
- track actions and outcomes, co-chairs alternate compilation of meeting/call summaries;
- report out to larger staff workgroup and management workgroup on progress and major discussion points to seek input, clarification and direction;
- perform follow-up actions between calls, as necessary.

Expected workload for each co-chair is 5-8 hours/week. Workgroup co-chairs will likely have additional duties during the national NPS program meeting in or around June 2012. The expected outcome of each issue group is a white paper of draft recommendations and options, which will be primarily written by the co-chairs. The white paper is an authoritative report that helps solve a problem and provides analyses that can be used to establish policy.

### **Issue Group Members:**

Issue group members are expected to:

- participate in frequent and regular meetings/calls, for a period of several weeks to 2 months;
- participate actively in workgroup discussions and listen to others' views;
- perform follow-up actions between calls, as necessary.

Expected workload for each member is 1-3 hours/week, plus meeting/call participation time (1.5 – 2 hours/call, at least biweekly. Issue group members will contribute to writing and reviewing sections of the issue group white paper(s).

## Staff Workgroup Chair and Member Duties

The duties of the Staff Workgroup Chair (Lynda Hall) and members are similar to those outlined above for the issue group co-chairs. The expected workload for staff workgroup members is 2-3 hours/month. The primary function of the staff workgroup is to provide input as appropriate to support each issue group and to manage the flow of information between the management workgroup and the issue groups. This workgroup is not expected to develop its own white paper, but members will provide timely input on draft white papers and points of discussion/debate as they arise.

## DRAFT Timeline

<b>By January 6, 2012</b>	ECOS and ACWA to provide input on State representation for Staff Workgroup Regional NPS Coordinators provide recommendations for State participant(s) for staff level workgroup
<b>Week of January 16</b>	EPA HQ to finalize member invite lists and schedule kickoff conference call for Management Workgroup and Staff Workgroup
<b>Week of January 23</b>	(1) Kickoff conference call with Management Workgroup (2) Kickoff conference call with Staff Workgroup
<b>Week of Feb. 6</b>	Issue Groups (A) and (B) to hold kickoff calls and begin meeting weekly or biweekly to discuss and draft recommendations for revisions to Section 319 Grant Guidelines
<b>Early Feb. – Late April</b>	Issue Groups (A) and (B) to meet ~biweekly. These groups should complete the majority of discussions and drafting of recommendations by early April for review by the Staff Workgroup and Management Workgroup
<b>Early March – Late April</b>	Issue Groups (C) and (D) convene and meet ~biweekly.
<b>By April 30, 2012</b>	Issue Groups to finalize white papers that present recommendations and options in their respective “key issue area.” Draft recommendations and options to be submitted to Staff Workgroup and Management Workgroup for review
<b>By May 11, 2012</b>	Conference call with Staff Workgroup and Management Workgroup to discuss draft recommendations
<b>By May 18, 2012 (or at least 2 weeks before National NPS Meeting)</b>	EPA to distribute final draft recommendations and options to EPA Regions and States for review
<b>June 2012</b>	EPA will begin internal dialogue related to Issue Group (E) earlier in the spring and will engage States in discussions related to program measures and accountability in June
<b>June 2012</b>	<b>National Nonpoint Source Meeting for State and EPA Program Managers</b> – Opportunity to engage EPA Regions and State NPS programs in discussions regarding changes to the Section 319 Program. Workgroup members will present preliminary findings/draft recommendations and options in each of the key issue areas, and will solicit feedback from meeting attendees.
<b>September 2012</b>	EPA to share s draft Section 319 Grant Guidelines for comments by States
<b>November 2012</b>	EPA to publish final Section 319 Grant Guidelines for use by the States in FY13
<b>September 2012 – March 2013</b>	Other program refinements, such as incremental program measures, enacted