

# Nonpoint Source Program/Grants Guidelines for States and Territories: U.S. Environmental Protection Agency Draft Revisions for Public Comment



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The United States Environmental Protection Agency (“EPA”) issued a Draft Revision for Public Comment of the following document:

*Nonpoint Source Program and Grants*

*Guidelines for States and Territories (“Draft Document”)*

The Draft Document addresses issues associated with the award of Section 319 Clean Water Act Grants for the Implementation of Nonpoint Source Management Programs.

The terms “point source” and “nonpoint source” have key jurisdictional significance under the Clean Water Act. A Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit must be required if five jurisdictional elements are present:

- A person
- adds a
- pollutant
- to navigable waters
- from a point source.

The term “point source” is defined under the Clean Water Act to include:

. . . any discernable, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

The Clean Water Act NPDES program is operated by the Arkansas Department of Energy & Environment – Division of Environmental Quality. It has been delegated such authority by the United States Environmental Protection Agency.

Nonpoint source pollutants are normally associated with agricultural, silvicultural, and urban runoff. Some portions of such discharges tend to be generated by soil disturbance and sedimentation.

Nonpoint source pollution generally results from land runoff, atmospheric deposition, drainage, or seepage of contaminants. A stormwater runoff or flow can mobilize various pollutants such as metals, oil and grease, and nutrients.

A nonpoint source would include any source of pollution that does not fall within the scope of the definition of “point source” in Section 502(14) of the Clean Water Act.

The Arkansas Department of Agriculture Natural Resources Division has programs to address nonpoint source pollution in Arkansas.

The October 30th Draft Document contains guidelines that apply to recipients of grants made with funds appropriated by Congress under Section 319 of the Clean Water Act.

EPA states it expects to implement the guidelines in the Draft Document in fiscal year 2024 and subsequent years. They are intended to replace the Nonpoint Source Program and Grants Guidelines for States and Territories that have been in effect since the fiscal year 2014 grant cycle.

The Draft Document is stated to have been developed in coordination with stakeholder engagements with Section 319 grantees, sub-recipients of 319 funding, and other stakeholders.

Examples of what are described as “notable changes” by EPA include:

- Five nonpoint priorities for states to consider when updating their five-year nonpoint source program plans, including guidance on how states may balance national priorities with state-specific issues.
- Addition of new expectations and flexibilities as articulated in a September 2022 equity memo for states to ensure more equitable access to nonpoint water quality benefits for disadvantaged communities.
- Renewed emphasis on activities to protect healthy waters and remove the limit on the amount of 319 funds that can be used for protection activities.
- Increased focus on planning for changing climate conditions, including a new emphasis on the climate adaption and resiliency co-benefits provided by common nonpoint source best management practices.
- Expansion of the emphasis on targeting nonpoint source control activities in areas that will protect or restore sources of drinking water.
- Clarification of the types of nonpoint regulatory programs that may be funded with program versus project funding.
- Additional options for reporting accomplishments, including metrics focused on protecting healthy waters, interim milestones, and other program accomplishments.

A copy of the Draft Document can be downloaded [here](#).