

CDPHE WQCD Nonpoint Source Program

Urban Stormwater Runoff Guidance

October 2013

Introduction

When funding under Section 319 of the federal Clean Water Act is granted to the Colorado Nonpoint Source Management Area (NPS Program), there are a number of guidelines offered by the U.S. Environmental Protection Agency (EPA) for the NPS Program to follow as we administer the Section 319 grant (please see Nonpoint Source Program and Grants Guidelines for States and Territories, April 12, 2013 at <http://water.epa.gov/polwaste/nps/cwact.html>, Current Guidance section). Many of these EPA guidelines help us define what activities are eligible for funding as we pass-through the Section 319 grant to our project sponsors. For example, the EPA guidelines make the distinction between nonpoint source control measures which are fundable and stormwater management activities required to implement Municipal Separate Storm Sewer System (MS4) permits which are not fundable. As project proposals are evaluated, the NPS Program will continue to rely on the EPA guidelines to determine eligibility for those proposed nonpoint source activities with potential links to stormwater discharges regulated by MS4 permit requirements.

Stormwater Regulated under MS4 Permits

As a result of federal and state rules and regulations, stormwater discharges in certain geographic areas of Colorado are regulated as point source discharges. For these point source discharges, permits to discharge from MS4s are issued under the Colorado Discharge Permit System (CDPS). Each discharge permit requires the entity responsible for the MS4 (the permittee) to develop, implement, and enforce a CDPS Stormwater Management Program. The Stormwater Management Program results in the reduction of discharge of pollutants from the MS4 to the maximum extent practicable to protect water quality and to satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act. The Stormwater Management Program must include elements addressing: public education and outreach on stormwater impacts; public involvement/participation; illicit discharge detection and elimination; construction sites; post-construction stormwater management in new development and redevelopment; and pollution prevention/good housekeeping for permittee operations. For additional information about the Colorado Department of Public Health and Environment, Water Quality Control Division (WQCD) MS4 Program, please visit <http://www.colorado.gov/cs/Satellite/CDPHE-WQ/CBON/1251596875370>.

NPS Funding Eligibility

The statutory intent for use of Section 319 funding is to address nonpoint sources, not permitted point sources, which makes it very important to evaluate any connections your project may have to stormwater discharges covered under an MS4 permit. Please refer to information available on the WQCD's website at <http://www.colorado.gov/cs/Satellite/CDPHE-WQ/CBON/1251596875370> (MS4 Stormwater Permitting and 2010 Urbanized Area Maps) to determine if your nonpoint source project may overlay with regulated stormwater coverage areas and the implementation of MS4 permit requirements.

You should also evaluate your proposed nonpoint source project with respect to the eligibility factors identified in the Urban Stormwater Runoff section of EPA's Nonpoint Source Program and Grants Guidelines for States

and Territories (<http://water.epa.gov/polwaste/nps/cwact.html>, pages 23 – 26). The NPS Program, in consultation with EPA, will use these factors on a case-by-case basis to make funding eligibility decisions about proposed nonpoint source projects within regulated stormwater coverage areas. The EPA guidelines state:

Eligibility Factors:

- Section 319 funding may be used for any urban stormwater activities that do not directly implement final MS4 permits. Activities not explicitly required in a permit or plan/program required by the permit or an order applicable to regulated stormwater discharges under Clean Water Action Section 402(p), Municipal and Industrial Stormwater Discharges are eligible;
- Section 319 funding may be used for activities that support but do not directly implement activities required by final MS4 permits, as well as activities that go above and beyond final MS4 permit requirements;
- Section 319 funding may be used for green infrastructure and low impact development in managing stormwater as long as final MS4 permit requirements are not directly implemented;
- Section 319 funding may be used for the following example urban runoff management and green infrastructure activities:
 - Technical assistance to state and local stormwater programs;
 - Monitoring needed to design and evaluate the effectiveness of implementation strategies;
 - Best Management Practices (BMPs) for pollution prevention and runoff control (except for BMPs that directly implement final MS4 permits);
 - Outreach and education programs outside of the general scope outlined within the MS4 permits;
 - Technology transfer and training;
 - Development and implementation of regulations, policies, and local ordinances to address stormwater runoff (these may apply to areas covered by MS4 permits, provided that the regulations, policies, and ordinances apply to non-permitted areas as well); and
 - Stormwater projects occurring outside of the MS4 permit coverage areas.
- Section 319 funding may NOT be used to pay for BMPs or “end of pipe” treatments which are required as part of a MS4 permit; and
- Section 319 funding may NOT be used to implement permit application requirements associated with stormwater regulations. For example, activities that implement permit application requirements such as mapping stormwater systems and identifying illicit connections are not eligible for Section 319 funding.

Your project must NOT directly implement a discharge permit requirement, including a final MS4 discharge permit or MS4 permit application requirement, to be eligible for NPS funding.

Assistance

If you have questions about your project and its potential connection to implementing MS4 permit requirements, please contact Tammy Allen, Restoration and Protection Unit Manager, tamara.allen@state.co.us, 303-692-3554. If you have questions about your project and its potential connection to implementing any other discharge permit requirement, please contact a member of the NPS Team identified at www.npscolorado.com.

