

CHAPTER 2 TEXAS' PLAN FOR NONPOINT SOURCE POLLUTION MANAGEMENT

THE NONPOINT SOURCE PROGRAM

Because they cannot be easily distinguished, nonpoint sources of pollution are largely unregulated and a majority of the activities designed to reduce their impact on water quality falls on the states' Nonpoint Source Programs administered under CWA§319. Texas addresses the requirements of CWA§319, to manage nonpoint source pollution in surface and ground water, through the Nonpoint Source Program jointly administered by the TCEQ and the TSSWCB. The TSSWCB administers the Nonpoint Source Program for agricultural and silvicultural NPS management and the TCEQ administers the Nonpoint Source Program for all other nonpoint sources. The CWA§319 Nonpoint Source Program consists of three broad components as defined by §319(a), §319(b) and §319(h). Table 2.1, below, lists those requirements.

Table 2.1 The Nonpoint Source Program

Assessment Report CWA §319(a)	Management Program CWA §319(b)	Grant Program CWA §319(h)
Identifies water bodies impacted by nonpoint sources that do not meet water quality standards	Identifies the BMPs and measures to reduce pollutant loadings from nonpoint sources.	Outlines application requirements, including an identification and description of the best management practices and measures
Identifies categories of nonpoint sources which add significant pollution to impacted water bodies	Identifies programs* to achieve implementation of the BMPs	Identifies how grant funds will be allocated
Describes the process for identifying best management practices and measures to control nonpoint sources	Includes a schedule with milestones for utilization of the program* implementation methods and implementation of the BMPs	Identifies priorities for grant funds
Identifies and describes State and local programs for controlling pollution added from nonpoint sources	Identifies sources of federal and other assistance and funding and purposes for which it will be used	States the requirement for annual reporting to the EPA regarding progress toward milestones and as appropriate, reductions in loadings and improvements in water quality

*Programs may include: nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects.

State Priorities for CWA § 319 Funding

One of the tools to assist states in NPS management is the CWA§319 Nonpoint Source grant. Funding is provided to states under CWA§319(h), defined in the above chart, to implement its *Nonpoint Source Management Program*. Due to a lack of adequate resources, Texas must establish priorities for its CWA§319 grant funding. Highest priority is given to funding those projects or activities which address water bodies not meeting water quality standards due to NPS pollution, as identified in the Texas CWA§303(d) List of impaired water bodies. To ensure fiscal responsibility and adequately focus limited resources, the state's Nonpoint Source Program uses the *Texas Water Quality Inventory and 303(d) List* process to establish its priorities (see Chapter 5). Appendices B and C represent a listing of the state's priority water bodies based on the *2002 Texas Water Quality Inventory and 303(d) List*. This list will change as the *Texas Water Quality Inventory and 303(d) List* is updated.

In addition, Texas will adopt TMDLs in impaired waterbodies identified as impacted by nonpoint source pollution in the state's CWA§305(b) assessment. The state will facilitate 100 percent of the state-approved Implementation Plans developed for NPS TMDLs adopted to eliminate significant impacts to water quality from present and future activities to the extent practicable under state and federal statutes, programs, and resources. Texas will also implement Watershed Protection Plans to address NPS water quality issues which, may not have a TMDL Implementation Plan to the extent practicable under state statutes, programs, and resources. The state will continue to conduct activities to prevent the degradation of water quality. The state will also facilitate implementation of activities to restore and protect groundwater quality where feasible.

The TCEQ and TSSWCB encourage the participation of all eligible grant recipients in the CWA §319(h) grant program. Local participation in the program provides the following benefits: improves the quality and quantity of information used to identify and develop water quality restoration activities, ensures a local perspective in decision making, helps stakeholders gain insight into the nature of water quality problems and solutions, and promotes local stewardship of water resources through voluntary actions to curb or prevent nonpoint source pollution.

Resource Leveraging

The majority of the State of Texas' annual CWA §319 grant allocation is "passed through" to political subdivisions by the TCEQ and TSSWCB through the execution of interagency or interlocal contracts. CWA§319(h) contractors are considered sub-recipients and, as such, are subject to all applicable federal regulations and statutes.

For the State's NPS Program to be effective on both a statewide and watershed level, the TCEQ and TSSWCB must work closely with other state, regional, and local organizations to implement management measures and optimize the use of all available resources. The magnitude of resources needed to restore beneficial uses and address nonpoint sources of pollution is much larger than the amount of funding available from the CWA§319(h) grant program. Therefore, the State of Texas NPS Program encourages the use of leveraged resources when feasible.

Federal Match Requirement

The Nonpoint Source Grant Program requires that federal funds be matched forty percent (40%) with non-federal funds. "Match" refers to funds or services used to conduct a project that are not borne by grant funds. All project match must: (1) relate directly to the project for which the match is being applied; (2) be reasonably valued; and (3) be supported by documentation. The cost share does not have to originate with the grant recipient but can come from individuals, outside organizations, other local governments, or state agencies as long as the source of the matching funds is non-federal and is not being used to match another federal grant program.

Matching or cost share can be financed in several ways:

Cash

These are costs that relate directly to the project for which the match is being applied and which are paid by the grant recipient. This is the most common method of fulfilling the federal match requirement.

In-Kind Services

In-kind services are typically defined as a donation separate from the grantee which has a cash value associated with it but may not require a cash outlay during the grant period. In-kind contributions may consist of the donation of real property, space and equipment, or a donation of time or services directly benefitting the grant project and specifically identifiable with it. The use of "third-party" or "in-kind" donations to meet grant matching requirements is regulated in 40 CFR 30.307, 40 CFR 31.24 (6) and (7) and is also covered in OMB Circular A. Third party in-kind contributions may be necessary to accomplish program activities and are allowable under applicable cost principles if the grantee was required to pay for them.

Clean Water Act State Revolving Fund

Another funding tool available to Texas for NPS management is the Clean Water Act State Revolving Fund (CWSRF). The Texas Water Development Board (TWDB) can provide loans for NPS pollution

abatement projects through the CWSRF at interest rates lower than the market offers. Loans can be made to towns, counties, conservation districts, and other public agencies, as well as private individuals and non-profit organizations. A water quality based priority system is used to rank potential applicants and fund projects with the greatest environmental benefits. Some of the activities that are eligible for funding include agricultural, rural, and urban runoff control, estuary improvement, nonpoint source education, wet weather flow control including stormwater and sewer overflows that are not associated with a Texas Pollutant Discharge Elimination System (TPDES) permit. Repayments on CWSRF loans provided from non-federal sources can be used as eligible match to CWA §319(h) grant funds.

Partnerships for Conducting Work

The State primarily uses the infrastructure of the Clean Rivers Program (CRP), Soil and Water Conservation Districts (SWCDs), Texas Groundwater Protection Committee (TGPC), and the University System to coordinate, develop, and implement its NPS Program. These entities are each charged with certain water quality stewardship responsibilities and can bring a great deal of experience related to research, assessment, laboratory analysis, and implementation and education activities. In addition, these entities conduct meetings and coordinate activities with a variety of local, regional, and state level stakeholders to pursue effective solutions to reduce or prevent nonpoint source pollution.

A group, consisting of nonpoint source stakeholders, was established to assist in the preparation and review of the *Texas Nonpoint Source Pollution Management Program*. This stakeholder group was established to ensure involvement by local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

Goals for NPS Management

The state's management program for nonpoint source pollution utilizes baseline water quality management programs and regulatory, non-regulatory, financial, and technical assistance approaches to achieve a balanced NPS management program. Nonpoint source pollution is managed through assessment, implementation, and education. The TCEQ and TSSWCB have established long and short-term goals and objectives for NPS management for guiding and tracking the progress of NPS management in Texas. The goals describe high-level guiding principles for all activities under the Program. The objectives specify the key methods that will be used to accomplish the goals. Success in achieving the goals and objectives are reported annually in the State's NPS Annual Report, which is submitted to EPA in accordance with CWA§319(h)(11).

This report is also available by contacting the TCEQ or TSSWCB or visiting their Web sites.

Long-Term Goal

The long-term goal of the State of Texas nonpoint source pollution program is to protect and restore water quality from nonpoint source pollution through assessment, implementation, and education.

Objectives

- Focus NPS abatement efforts, implementation strategies, and available resources in watersheds identified as impacted by nonpoint source pollution.
- Support the implementation of state, regional, and local programs to prevent nonpoint source pollution through assessment, implementation, and education.
- Support the implementation of state, regional, and local programs to reduce NPS pollution, such as the implementation of strategies defined in state-approved TMDL Implementation Plans and Watershed Protection Plans.
- Support the implementation of state, regional, and local programs to reduce NPS pollution to groundwater through the Groundwater Protection Strategy, based on the potential for degradation with respect to use.
- Develop partnerships, relationships, memoranda of agreement, and other instruments to facilitate collective, cooperative approaches to manage NPS pollution.
- Increase overall public awareness of NPS issues and prevention activities.
- Enhance public participation and outreach by providing forums for citizens and industry to contribute their ideas and concerns about the water quality management process.

Short-Term Goals and Milestones

Goal One - Data Collection and Assessment

Coordinate with appropriate federal, state, regional, and local entities, private sector groups, and citizen groups and target CWA §319(h) grant funds towards water quality assessment activities in high priority, nonpoint source-impacted watersheds, vulnerable and impacted aquifers, or areas where additional information is needed.

Objectives

Evaluate the condition of the State's water bodies, on a biennial basis, and prepare a report containing this evaluation, as required by CWA§305(b) to determine: a) water bodies not meeting water quality standards due, at least in part, to nonpoint source pollution, and; b) the cause of the impairment.

- Identify surface waterbodies and aquifers from the *Texas Water Quality Inventory and 303(d) List* and *Joint Groundwater Report* that need additional information to characterize non-attainment of designated uses and quality standards. This information is used during annual coordinated monitoring meetings and during special project planning to focus on high priority waters.
- Ensure that monitoring procedures meet quality assurance requirements and are in compliance with EPA-approved TCEQ and/or TSSWCB Quality Management Plans.
- Conduct special studies to determine sources of NPS pollution and gain information to target TMDL activities and BMP implementation.
- Develop and adopt, at the state level, TMDLs, Implementation Plans and Watershed Protection Plans to maintain and restore water quality in waterbodies identified as impacted by NPS pollution.
- Conduct monitoring to determine effectiveness of TMDL Implementation Plans, Watershed Protection Plans, and BMP implementation as appropriate.

Goal Two - Implementation

Coordinate and administer the NPS program to support the implementation of TMDL Implementation Plans and/or Watershed Protection Plans and other state, regional, and local plans/programs to reduce NPS pollution. Manage all CWA§319 grant funds efficiently and effectively to target implementation activities to the areas identified as impacted, or potentially degraded with respect to use by NPS pollution.

Objectives

Prevent and reduce NPS pollutant loadings in the surface water bodies, groundwater aquifers, wetlands, and coastal areas, through the execution of TMDL implementation Plans, Watershed Protection Plans, recommendations from the Joint Groundwater Monitoring and Contamination Report, the Groundwater Protection Strategy, and various agricultural / silvicultural activities.

- Work with regional and local entities to determine priority areas and develop and implement strategies to address NPS pollution in those areas.
- Develop and implement BMPs to address constituents of concern or water bodies not meeting water quality standards in watersheds identified as impacted by NPS pollution.
- Develop and implement BMPs to address NPS constituents of concern or water bodies not meeting water quality standards in aquifers identified with impacts or as vulnerable in the latest state approved *Texas Water Quality Inventory and 303(d) List* or in Chapter 5 of this document.
- Implement state-approved TMDL Implementation Plans and Watershed Protection Plans developed to restore and maintain water quality in water bodies identified as impacted by nonpoint source pollution.

Goal Three - Education

Conduct education and technology transfer activities to help increase awareness of NPS pollution and prevent activities contributing to the degradation of water bodies, including aquifers, by NPS pollution.

Objectives

Reduce the amount of NPS pollution entering the water bodies of Texas through pollution prevention activities and education.

- Enhance existing outreach programs at the state, regional, and local levels to maximize the effectiveness of NPS education.
- Administer programs to educate citizens about water quality and their potential role in causing NPS pollution.
- Where applicable, expedite development of technology transfer activities to be conducted upon completion of BMP implementation.
- Conduct outreach through the Clean Rivers Program, Texas Cooperative Extension, Soil and Water Conservation Districts, and others to facilitate broader participation and partnerships. Enable stakeholders and the public to participate in decision-making and provide a more complete understanding of water quality issues and how they relate to each citizen.
- Implement outreach activities identified in the *Texas Groundwater Protection Strategy* to prevent NPS impacts to groundwater.

- Implement public outreach and education to maintain and restore water quality in waterbodies impacted by NPS pollution.

The long-term goal will remain the goal of NPS management as long as nonpoint source water pollution is an issue. Short-term goals will be examined every five years. Measurement of the goal achievement progress, within the priority water bodies, will be reported on an annual basis in the State's NPS Annual Report. The TCEQ and the TSSWCB will evaluate the management program, on an annual basis, to determine a need for revision and revise the document at least every five years.

Milestones

Water bodies with completed TMDLs, those undergoing current TMDL-work, and water bodies currently implementing Watershed Protection Plans have been listed in Appendix C, in table format, in order to gauge progress, through a time line, against the detailed milestones that are included below and in the first column of each table within the appendix.

- Employ or develop a local Watershed Committee to solicit input and encourage the participation of affected stakeholders in the decision-making process.
- Complete the assessment of pollutant problems by reviewing existing water quality data, conducting an inventory of point / nonpoint sources, land use data, and all known stressors influencing water quality.
- Complete water quality monitoring. Analyze data, assess loadings, and determine the origin and distribution of pollutants.
- Develop and apply model(s) to determine numerical load allocations. Recommend control strategies for implementation.
- Develop a detailed action plan (TMDL, IP, or WPP) which establishes overall goals and objectives, load allocation, strategy for load allocation, timetable for implementation, and a list of expected results.
- Implement voluntary and regulatory actions in the watershed and adjust the BMP implementation based on follow-up verification monitoring of effectiveness.

The programs discussed throughout this document are responsible for NPS management and implementation of the goals, objectives, and milestones. Nonpoint source management must be a coordinated effort to be successful. Therefore, the goals and milestones are over-arching for all nonpoint source programs of Texas.