

2023 Section 319 Nonpoint Source Program Guidelines Revision

National Elements – NPSMP and WBP Workgroup Final Report

July 2023

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1 Executive Summary

This report summarizes feedback that the Nonpoint Source Management Program (NPSMP)-Watershed Based Plan (WBP) Workgroup, comprised of members from EPA and state agencies, advanced to the broader 319 Guidelines Revisions workgroup. This workgroup covered topics related to nonpoint source management programs, watershed-based plans, and alternative watershed-based plans. A subgroup focusing on Alternative Watershed-Based Planning was jointly held with members of this workgroup and the Watershed Planning Workgroup.

The workgroup met in various forms 11 times between February 2023 and May 2023. Through workgroup meetings, independent reviews and written feedback, the workgroup identified opportunities for revisions, clarification, updates, and new content development.

In particular, the group noted opportunities to:

- Provide additional explanation on EPA’s expectations without being overly prescriptive;
- Clearly define what EPA expects to be acceptable regarding equity and climate change efforts from state NPS programs;
- Add additional information on expectations for level of detail in workplans and alternative plans;
- Clarify EPA’s role in watershed-based plan review;
- Incorporate considerations of changing environmental conditions in both NPS Management Programs and watershed-based plans; and
- Encourage states to take advantage of new flexibilities and considerations stemming from the Fall 2022 Equity memo.

A detailed report of comments is in Section 4; and a full summary of feedback by section and key points can be found in Section 5.

2 Workgroup Description

This workgroup was formed by volunteers from EPA Regions and State agencies. Of the 20 members, there was representation from EPA HQ, 4 EPA Regions and 12 states. This diverse group brought varying perspectives that helped inform the recommendations. The workgroup focused on the Nonpoint Source Management Plan and Watershed-Based Plan development. The sections reviewed by the workgroup are listed in Table 1.

Between February 2023 and May 2023, EPA and EPA-state workgroups met to review and discuss content, suggest revisions, and identify opportunities for improvement. Much of the revisions focused on including equity and climate considerations into these plans, as well as how to improve clarity. Through the review process, some sections were flagged as best suited for subject matter experts, who were brought in to provide input and additional context.

Table 1. Chapters Reviewed by Workgroup

Chapter, Section, Subsection	Topics Discussed
III. Nonpoint Source Management Programs	Lessons learned since the previous guidelines update, frequency of updates or revisions, points of confusion, consideration for climate and equity
V. Watershed Based Planning	Challenges to plan development, considerations for climate and equity
IX.I. State NPS Management Program Updates	Frequency of updates or revisions, consideration for climate and equity
Appendix A. Key Components of an Effective State Nonpoint Source Management Program	Clarity of requirements, points of confusion, consideration for climate and equity
Appendix C. Minimum Elements of a Watershed-Based Plan	Clarity of elements and their descriptions

3 Workgroup Members

A total of 20 workgroup members participated and included representatives from EPA (8) and states (12).

Table 2. Workgroup Members

Name	Affiliation	Contact
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4 Topic discussion

The combined EPA-State workgroup held four meetings and feedback and comments from state workgroup members were compiled and incorporated by workgroup co-leads and EPA regional workgroup members. The EPA only workgroup met multiple times with meeting content varying from discussing workgroup goals and how best to engage our state workgroup members to discussing the EPA-State workgroup meetings after they occurred to editing and revising Guidelines sections and generating feedback for the Guidelines revision process.

Table 2. Workgroup meetings.

Meeting	Date	Purpose
EPA Only Workgroup Meeting 1	2-22-23	Introduction and goals
EPA Only Workgroup Meeting 2	2-27-23	Generating discussion questions for EPA-State Workgroup
EPA-State Workgroup Meeting 1	3-6-23	Section III and Section IX – NPS Management Program Plans
EPA Only Workgroup Meeting 3	3-13-23	Discussing state feedback on Section III and IX
EPA-State Workgroup Meeting 2	3-23-23	Appendix A – Elements of an NPS Management Plan
EPA Only Workgroup Meeting 4	3-27-23	Discussing state feedback on Appendix A
EPA-State Workgroup Meeting 3	4-3-23	Section V – Watershed-based Plans
EPA Only Workgroup Meeting 5	4-10-23	Discussing state feedback on Section V
EPA-State Workgroup Meeting 4	4-17-23	Appendix C – Watershed-based Plans
EPA Only Workgroup Meeting 6	4-26-23	Discussing feedback on Appendix C
EPA Only Workgroup Meeting 7	5-3-23	Group revision-Sections III, IX, V, Appendix A, and Appendix C

Workgroup members read the relevant NPS guidelines sections before each meeting to prepare for discussions. Workgroup meetings included a review of the day’s agenda and goals and open facilitated discussion of questions for state workgroup members that were prepared by the EPA only workgroup members and workgroup co-leads.

Key feedback from the above workgroup meetings is detailed below. Relevant feedback and observations were compiled by the EPA only workgroup and incorporated into a first draft revision of the NPS guidelines. These revisions were then reviewed by all the separate working groups, EPA HQ staff, and EPA regional staff for incorporation into the draft NPS guidelines.

4.1 General

- A strong introduction is needed in guidance to cover the overall importance of climate and equity so the relevant guidelines sections can each address CC/EJ in the appropriate way.
- States would like some clarification of what EPA means when they emphasize program priorities like Equity or Climate Change (i.e., is it a suggestion or is it a mandate?).
- The guidelines should include specific details about what EPA would like to see in NPS management plans, annual reports, Watershed-based plans, workplans, etc. regarding equity and climate change.
- States would like guidance/clarification on including equity and/or climate change reporting in workplans, final reports, annual reports, Nonpoint Source Management Programs etc.
- States would like discussion/examples of how to incorporate planning documents from other agencies/programs into their NPS MPs and Watershed-based plans (TMDLs,

alternative TMDLs, Hazard Mitigation Plans, USFS Watershed Condition Frameworks, BAERs, etc.)

- States would like to see some acknowledgment of the time frame in which climate change is occurring and the time it will take to begin addressing it through state 319 programs.
- States believe it is important to recognize that some political environments are more receptive than others to topics regarding climate change, so guidelines should take care to reflect this by offering more neutral language (soil health, changing climatic conditions, etc.).

4.2 NPS Management Program Plans (Sections III, IX, and Appendix A)

Section III & IX

- In general, state NPS programs don't reference NPS guidelines very often after having initially read them unless a specific issue comes up which needs clarification.
- States are supportive of the five-year update timeline on NPS MPs as annual assessments occur for annual reports and updates occur on five-year timeline.
- NPS MP updates are usually tweaks, updates, revisions rather than complete rewrites of an existing NPS MP.
- States have a range of responses to how equity and climate change might be incorporated into their NPS MPs:
 - Incorporating equity and climate change into scoring system for request for applications (RFAs).
 - Developing climate criteria and disadvantaged community (DAC) definitions.
 - Capacity building with WBP planning tools and/or templates for DACs.
 - Focusing on working with tribal partners.
 - Engaging with sister agencies on climate resilience goals and incorporating into NPS MP goals.
 - Identifying if existing work is addressing DACs.
 - 40% match is a barrier for DACs, would like help to waive or reduce this match.
- States would like to see guidance on how and where EPA wants to see equity and climate change incorporated into NPS MPs.
- States would like to see guidance on how to address emerging contaminants, non-pollutants, and state-specific NPS issues such as; impairments that don't require TMDLs, emerging contaminants, legacy mine operations and others.

Appendix A

- It would be helpful to have language in the guidelines that encourages states to have more coordination between entities that handle water quantity verse those that handle water quality.
- States would like EPA to facilitate more information sharing and highlight examples from state peers about how they handle NPS issues (common contaminants, emerging contaminants, equity, climate, etc.).

- The key to addressing emerging contaminants and/or state-specific concerns is to make sure they are included in the NPS MP so that they are eligible for 319 funding.
- States would like clarification on how to prioritize equity and climate within the current paradigm of 319 because many states are under pressure to de-list watersheds with TMDLs.
- Unassessed waters are a data gap for identifying/prioritizing waters for protection.
- Western states also look at water quantity as part of their NPS process, to address climate impacts.
- States would like to see broad guidance about how to incorporate hazard mitigation planning into the watershed-based planning process.
- Some states view equity/climate change as long-term goals and envision them in long term NPS MP milestones as opposed to committed, short-term milestones while others have identified both short- and long-term milestones.
- Some states would rather commit to short term milestones to avoid getting ahead of state strategy and to ensure they can avoid program overlap issues with other state agencies.
- States would like help from EPA regarding how to work with tribes that don't have TMDLs, assessed waters, etc. and how to use 319 funds in these scenarios.
- States would like EPA to keep in mind that limited funding makes incorporating new priorities into existing paradigm difficult.
- Workgroup co-lead clarified that climate change is long-term, and our program can't fix the problem all by ourselves, so EPA doesn't expect our state partners to solve the problem using their existing 319 funds. EPA is looking to emphasize the existing equity benefits (e.g., septic system repair/outreach is a good example of a common NPS activity with equity benefits) and the existing climate change co-benefits of regular NPS BMPs (e.g., riparian restoration sequesters carbon).
 - This may look something like our state partners assessing their existing activities and categorizing the equity and climate change benefits they are already producing (on a qualitative level, not necessarily quantitative as monitoring funds are limited).
 - Addressing these priorities as a program could take the form of an internal program review to assess the current state and target future opportunities to expand equity and climate change in their program.

4.3 Watershed-based Plans (Section V and Appendix C)

Section V

- EPA emphasized that flexibility is important in watershed-based plans.
- Need consistency in expectations about balance of planning vs implementation, restoration vs protection, etc.
- Some states feel the comprehensiveness expected of a 9-element watershed-based plan doesn't match the funding supplied for it. States mentioned:

- It can be difficult to get stakeholders with limited funds to engage on the level required of a watershed-based plan when other planning efforts don't require as much;
- Finding experience plan developers at reasonable cost is challenging;
- TMDLs and other planning documents should be incorporated into technical information required in watershed-based plans; and
- Existing TMDLs can also limit the geographic clustering of watershed-based plans.
- States have varying ecological and population parameters creating a need for flexibility in scope, scale, critical source area identification, modeling and monitoring.
- States re-emphasized need for EPA to allow flexibility or provide guidance on using other documents (TMDLs, small local plans vs large regional plans, etc.) and cross-walking them to Watershed-based plans to reduce redundancy, burden, and costs.
 - EPA encouraged states to engage early with the agency to identify areas of flexibility.
- Some states found the expected scope of a watershed-based plan to be confusing; there needs to be clarification is the plan a five-year plan to be updated or a cradle to grave plan from inception to restoration?
- States emphasized need to balance the number of watershed-based plans versus the available implementation funding.
- Some states would like option to spend project funds on watershed-based plans as most of their planning funds go to staff, etc. and there aren't enough state funding options to support plan development.

Alternative WBP discussion

- States were asked how frequently alternative watershed-based plans were used and what scenarios they were used in.
- A select number of states had protection watershed-based plans, but they utilized the 9-elements, not the alternative watershed-based plan format.
- States would like to see more examples of what EPA considers to be restorative and protective alternative watershed-based plans.
- Additional details are needed on what elements or components are needed for an alternative watershed-based plan.
- For protection-based watershed plans and alternative watershed-based plans stats could model future loadings to determine if or when water quality standards would be surpassed.
- With regards to protection plans, stakeholders may want water quality standards that are more stringent than the national target and this could be a reason for a protective plan.
- In some states alternative watershed-based plans may be preferred vehicle for addressing emerging contaminants in some states.

Climate change and Watershed-Based Plans

- Watershed-based plans should focus on increasing habitat resilience (increasing canopy cover, cold water refugia, etc.).
- Some states use proprietary tools to check climate resiliency of best management practices (BMPs).
- EPA could provide guidance on considering the linkage between emergency response plans (flood, wildfire, etc.) to climate resilience portions of watershed-based plans and nonpoint source management programs.
- States would like to see what EPA considers appropriate for addressing climate considerations in watershed-based plans, EPA noted that the adaptive management components of plans should provide a path forward for watershed-based plans if climate conditions change.
- When scoping climate resilience priorities in a watershed-based plan, states could consider examining flood insurance maps and DOT risk assessment tools.

Leveraging Watershed-based plans with other planning documents

- When possible, states should use funds from multiple agencies and leverage existing planning documents, without creating overlap in information.
- When expanding a TMDL states need to be careful that expanding a TMDL to a WBP doesn't result in paying for the same thing twice.
- Some states feel TMDLs lack specificity required in a watershed-based plan to do restoration work, making it difficult to leverage plans.
- Some states think that regulatory and voluntary plans are hard to mix and that a better approach would be to create holistic watershed-based plans then TMDL; other states use existing TMDL as basis for information required to do the first three elements of a watershed-based plan.
- A issue of scale exists for large TMDLs versus smaller WBP (HUC8 vs HUC12)

Appendix C – Minimum Elements of a Watershed Based Plan

- There is a consensus among state participants that it is unclear how much depth a given watershed-based plan should go into for each element.
- States would like some examples of how different plan components could be addressed at different levels of detail/scale so watershed-based plans at multiple scales/levels of technical capacity have a reference.
- State participants found Element D, technical and financial assistance, challenging, it's unclear how far a plan needs to go to satisfy this element.
- The scale of a plan can be an issue for some states, it's unclear when it is okay to create and HUC8 plan or a plan with several HUC12s.
- Monitoring is a challenge for many, it's hard to get consistent monitoring of sporadic implementation.
- There was a general feeling that guidance allows for too broad of an interpretation, we see inconsistency across the nation when one state is doing something innovative, another region may not accept that method or be reluctant to try it.

- Some states have had success identifying critical source areas using statewide tools to identify erosion hotspots and use this info to help write element A ([EVAL Tool](#)).
- States find it helpful to discuss watershed-based plan development with EPA regional staff before, during, and after the process. States can understand boundaries, goals, and obstacles as well as fostering creative solutions to previously intractable problems.
- Monitoring element can be difficult to address for large scale watershed-based plans; linking individual projects to measurable change is challenge so often multiple projects in aggregate are needed to detect change.
- Many states feel a strong Element C is crucial to a strong watershed-based plan.

5 Program Needs and Suggestions

- Clearly define what EPA expects to be acceptable regarding equity and climate change efforts from state NPS programs.
 - Clearly define what the NPS program’s definition is for an underserved, overburdened, or disadvantaged community.
- Clearly define expectations regarding reporting of equity and climate efforts at multiple levels (NPS Management Programs, workplans, progress reports, final reports, Satisfactory Progress Determinations, watershed-based plans, Justice40 requirements, etc.).
- Communicate NPS MP and WBP expectations to regional NPS EPA staff and facilitate discussions between EPA regions and states to ensure understanding of expectations.
 - Ongoing discussion between state and regional EPA staff is strongly recommended at all levels of plan development (before, during, and after).
- Acknowledge that different states and different watersheds have different WBP needs:
 - Geographic and temporal scale needs can vary widely;
 - Technical capacity and funding availability can also influence watershed-based plans;
 - Arid regions and mesic regions, rural vs urban, etc.; and
 - EPA should have flexibility to work with states on watershed-based plans at an individual level rather than blanket requirements for all watersheds.
- Provide examples of scenarios where an alternative WBP would be acceptable and provide specific guidance of how much detail is needed for alternative WBP elements.
 - Provide examples of different Alternative Watershed-based plans: emergency, small scale, and protective.
- Encourage states to include emergency management planning scenarios in NPS MPs and watershed-based plans.
- Promote cross-state and cross-regional information sharing so states can see examples of Watershed-based plans and successful approaches from outside their state/region.
- Consider development of an EPA tool to assess equity and climate resiliency opportunities.
- Consider assessing and standardizing aspects of WBP training courses throughout the nation –and sharing via EPA training.

- Clearly outline how other programs (TMDLs, etc.) and other agencies (FEMA, USFS, etc.) can interact with NPS planning process to provide benefits in both directions.
- Acknowledge that changing climate scenarios will affect modeling forecasts, so plan updating is imperative (emphasis on living documents).
 - This also requires EPA to understand that hitting a moving target is difficult so flexibility in some planning aspects is required.
- Include clarifying language regarding the role of EPA regional reviewers in reviewing NPS MP updates and Watershed-based plans.
- Need to allow flexibility to include CC/EJ activities in workplans for those states who updated their MPs before the recent focus on CC/EJ to allow them to work on these activities even though it may not be mentioned in their current MP.