Oregon

Kate Brown, Governor

Department of Environmental Quality
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Dan Opalski
Director
Office of Water and Watersheds
Suite 900, (OWW-192)
Region 10, U.S. Environmental Protection Agency
1200 6th Avenue
Seattle, Washington 98101

Dear Mr. Opalski:

The EPA's "Nonpoint Source Program and Grants Guidelines for States and Territories" require states to use at least 50% of the Section 319(h) funds specifically for implementing watershed projects. The Guidelines also provide that when circumstances arise in which a state believes it cannot meet one or more requirements in the guidelines, the state may request a waiver from those requirements.

The Department of Environmental Quality is requesting from EPA a waiver from the guidelines that requires the state to use at least 50% of the Section 319(h) funds specifically for implementing watershed projects. We are making this request because of some unique circumstances in Oregon.

EPA reduced DEQ's 2015 319 grant funds because EPA and NOAA determined that Oregon did not submit a fully approvable Coastal Nonpoint Control Program under the Coastal Zone Act Reauthorization Amendments (CZARA). The Program was not fully approvable because of gaps in Oregon's program related to forestry to meet or maintain water quality standards and protect beneficial uses. EPA notified DEQ that Oregon's 2015 Grant funds will be redistributed to other states and territories that have approved coastal nonpoint control programs. Oregon took the entire cut in funding from the 319 Pass Through Grant funds to ensure sufficient funding for state staff to adequately implement the NPS program statewide and deliver water quality results. As a result, Oregon will be unable to meet the 50% requirement for watershed project funds.

DEQ NPS and TMDL Program staff that are supported by 319 funds have a strong connection to and implement the NPS Management Program Plan and priorities. Basin Coordinators provide water quality technical assistance to watershed councils, local and state agencies for reducing the effects of land management actions that are nonpoint sources of pollutants. DEQ

NPS/TMDL staff reviewed and provided comments during the Oregon Department of Agriculture's biennial review of area rules and plans for the: Upper Willamette and Siuslaw; Walla Walla; Greater Harney Basin; Inland Rogue; Wallowa; and Crooked River. In addition, these positions provide reviews and recommendations for project funding from other sources of restoration funds, such as Oregon Watershed Enhancement Board (OWEB). Basin Coordinators participate in OWEB review teams for projects that would protect or restore water quality affected by nonpoint sources. Basin Coordinators in the Rogue Basin work with the Rogue Valley Council of Governments for coordinated monitoring by Designated Management Agencies of Rogue Basin TMDL nonpoint source implementation. And DEQ TMDL Water Quality Analyst work on technical analysis for development of NPS TMDLs with improved Reasonable Assurance for nonpoint sources, such as the MidCoast TMDL. These TMDL would include: identification of sources; nonpoint source implementation planning with milestones and timelines; and tracking and reporting of implementation.

Oregon uses the annual 319 Pass Through Grant Request for Proposals to connect local project and water quality needs to the long and short term priorities needed to implement Oregon's NPS Management Program Plan.

The work plans included in our 2016 319 Pass Through Grant submittal represent these priorities. The general categories of priorities include projects for riparian and stream restoration, implementation of management actions, education and outreach, and local watershed planning activities.

DEQ is committed to working with EPA, NOAA and our State agency partners to address the EPA and NOAA identified gaps in the State of Oregon's CNPCP with the hope of having an approvable CNPCP that will eliminate the need for the 319 penalty. Meetings scheduled for 2016 may help to address the gaps. However, the State is exploring the use of a leveraged exemption to address future 319 Grant years where the state is using less than 50% of the Section 319(h) funds specifically for implementing watershed projects. This may be an appropriate approach because in Oregon several million dollars each year are awarded through OWEB to fund watershed restoration projects that would reduce nonpoint sources of pollution and improve water quality. The state will develop this approach in 2017 and if appropriate, submit to EPA for consideration.

The following provides more detailed information on how DEQ divided the post penalty FY 2015 and FY 2016 319(h) awards.

319 Grant Year 2015:
Oregon award: $1,370,949 of PPG funds and $80,851 of pass through funds
50/50 waiver amount: $645,049

The 2015 319 Grant pass-through funds available for eligible projects were reduced from $712,351 to a total of $80,851. This amount was allocated as follows:

- $12,127 for statewide projects; and
- $22,907 for each, Eastern, Northwest and Western Regions

With the reduced funds we were able to partially fund a very limited number of nonpoint source projects from 2015 319 Grant funds.

319 Grant Year 2016:
Oregon award: $1,383,959 of PPG funds and $333,501 of pass through funds
50/50 waiver amount: $525,229

The 2016 319 Grant pass-through funds available for eligible projects were reduced from $699,341 to a total of $333,501. This amount was allocated as follows:

- $48,951 for statewide projects; and
- $94,850 for each, Eastern, Northwest and Western Regions

With the reduced funds we will be able to partially fund a very limited number of nonpoint source projects from 2016 319 Grant funds.

DEQ is committed to implementing Oregon's NPS Management Program Plan to protect and restore water quality affected by nonpoint sources of pollution. Thank you for your consideration.

Respectfully,

Wendy Wiles
Environmental Solutions Division Administrator

cc: Linda Hall, EPA HQ Chief Nonpoint Source Control Branch
Dave Croxton, EPA R10 Manager Watershed Unit
Alan Henning. EPA R10 319 Grant Coordinator
Gene Foster, DEQ Watershed Management Section Manager
Ivan Camacho, DEQ 319 Grant Coordinator
Adam Coutu, DEQ Water Quality Budget Analyst